

Digitized by the Internet Archive in 2022 with funding from University of Toronto







SP-1

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Thursday 13 December 2007

Journal des débats (Hansard)

Jeudi 13 décembre 2007

Standing committee on social policy

Organization

Comité permanent de la politique sociale

Organisation



Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Thursday 13 December 2007

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Jeudi 13 décembre 2007

The committee met at 1103 in room 228.

ELECTION OF CHAIR

The Clerk of the Committee (Mr. Katch Koch): Good morning, honourable members. It is my duty to call upon you to elect a Chair. Are there any nominations?

Ms. Laurel C. Broten: Yes. I'd like to nominate Shafiq Oaadri to serve as Chair.

The Clerk of the Committee (Mr. Katch Koch): Mr. Oaadri, do you accept the nomination?

Mr. Shafiq Qaadri: I'm honoured to accept the nomination.

The Clerk of the Committee (Mr. Katch Koch): Any other nominations? There being no further nominations, I declare the nominations closed and Mr. Qaadri elected Chair of the committee.

The Chair (Mr. Shafiq Qaadri): I'd like to thank my nominator, Laurel Broten, MPP for Etobicoke—Lakeshore. If there's no further business, I declare the committee—

Ms. Laurel C. Broten: No, we have to nominate a Vice-Chair.

ELECTION OF VICE-CHAIR

The Chair (Mr. Shafiq Qaadri): Do I have nominations for a Vice-Chair?

Ms. Laurel C. Broten: Thank you, Chair, and congratulations on your new role. I'd like to nominate Vic Dhillon to serve as Vice-Chair.

Mr. Khalil Ramal: I second the nomination.

The Chair (Mr. Shafiq Qaadri): Ms. Broten has nominated Vic Dhillon for Vice-Chair, seconded by Mr. Ramal. Are there any further nominations? Nominations closed. I declare Vic Dhillon nominated as Vice-Chair.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mr. Shafiq Qaadri): Do we have appointments for subcommittee business?

Mr. Khalil Ramal: Mr. Chair, congratulations on your appointment. I know you'll do an excellent job. I know you did it in the past, and you'll do it in the future too.

I move that a subcommittee on committee business be appointed to meet from time to time at the call of the

Chair, or at the request of any member thereof, to consider and respond to the committee on the business of the committee;

That the subcommittee be composed of the following members: the Chair as Chair, Ms. Broten from the Liberal side, Ms. Scott from the Conservative side, and Ms. DiNovo from the NDP side;

That the presence of all members of the subcommittee is necessary to continue a meeting.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal, for your submission. Are there any comments or questions with reference to the subcommittee Chair?

We welcome Ms. Scott.

Mr. Dave Levac: Yes, I just want to correct one word. I hate to say it, I normally don't do this, but he said "to consider"; it's "to constitute a meeting."

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Levac

Mr. Dave Levac: There could be a glitch in that if we don't say it right, so I wanted to correct that.

The Chair (Mr. Shafiq Qaadri): Thank you. So we'll take the subcommittee appointed, as read.

Just to notify the committee, I understand, by the way, that Bill 8, on the trans fats ban for schools, will in fact be referred through the House to the committee and we'll likely need an organizational meeting. That's a heads-up for subcommittee members—probably next week.

Ms. Laurie Scott: You said there's a subcommittee meeting, probably next week?

The Chair (Mr. Shafiq Qaadri): Congratulations for now being on that subcommittee.

Ms. Laurie Scott: I'm not on the subcommittee?

The Chair (Mr. Shafiq Qaadri): You are on the subcommittee.

Ms. Laurie Scott: Oh, I thought you said I'm not on the subcommittee. Okay, I'll be on the subcommittee next week. There's a motion today in the Legislature that's going to be brought up?

The Chair (Mr. Shafiq Qaadri): One would never want to presume what's happening in the chamber, but that's the understanding.

Ms. Laurie Scott: That's the understanding. Thank you.

Ms. Laurel C. Broten: Would it be prudent to establish, while we are all here, a generic—if in fact a bill does come to this committee, I would suggest that perhaps we establish, for all of our scheduling purposes

and otherwise, a game plan moving forward. I'd be prepared to move that at this time if others would be willing to see that motion made.

The Chair (Mr. Shafiq Qaadri): Sure, I think scheduling is certainly doable. I think our clerk, Mr. Koch, may even in fact be able to execute on the phone if necessary, if we all are in our various ridings. It's really just a matter of making sure that the subcommittee is heard. We could do a formal one, but with the will of the committee, we might just wait for the notification from Parliament.

I'd like to congratulate you, Mr. Dhillon, on being appointed Vice-Chair of this committee.

Is there any further business?

Mr. Dave Levac: Yes, just for clarity purposes. I don't want to belabour this; keep the gavel in your hand, because we want to go down.

The Chair (Mr. Shafiq Qaadri): Mr. Dickson, please join us at the committee area.

Mr. Dave Levac: It's the subcommittee that we'd be deferring to with regard to the scheduling. Is that what I'm hearing?

Interjection.

Mr. Dave Levac: Okay, because I think it's important to recognize that it's the subcommittee that does that work. Thanks. That's just for clarity purposes.

The Chair (Mr. Shafiq Qaadri): Just for our new members as well, first of all, welcome to the committee on social policy. This is just a purely organizational meeting: as you'll know, election of Chair and Vice-Chair and subcommittee appointment, which is, just for your information, Ms. Broten, Ms. Scott and Ms. DiNovo.

Once again, Bill 8, the Healthy Food for Healthy Schools Act—trans fats—is likely to be referred to this committee and then we'll likely begin hearings, I understand, in January.

Having said all that, is there any further business?

Mr. Dave Levac: I always remembered to do this when I was in my last few committees: Merry Christmas, everyone.

The Chair (Mr. Shafiq Qaadri): Merry Christmas, season's greetings. Thank you, Mr. Levac.

Seeing no further business, the committee is adjourned.

The committee adjourned at 1108.







CONTENTS

Thursday 13 December 2007

Organization	SP-1
--------------	------

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke-Lakeshore L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London-Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)

Mr. Peter Shurman (Thornhill PC)

Also taking part / Autres participants et participantes

Mr. Joe Dickson (Ajax-Pickering L)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer, Research and Information Services SP-2



ISSN 1710-9477

SP-2

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Tuesday 8 April 2008

Standing committee on social policy

Healthy Food for Healthy Schools Act, 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mardi 8 avril 2008

Comité permanent de la politique sociale

Loi de 2008 portant sur une alimentation saine pour des écoles saines

Chair: Shafiq Qaadri Clerk: Katch Koch

Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

Hansard and other documents of the Legislative Assembly L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Tuesday 8 April 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Mardi 8 avril 2008

The committee met at 1551 in committee room 1.

Le Président (M. Shafiq Qaadri): Chers collègues, j'ai le plaisir maintenant de vous accueillir au Comité permanent de la politique sociale pour considérer le projet de loi 8, Loi modifiant la Loi sur l'éducation.

Colleagues and ladies and gentlemen, it's my privilege to welcome you and to begin the official proceedings of the standing committee on social policy for consideration of Bill 8, An Act to amend the Education Act.

As a matter of procedure, I will invite a member of the subcommittee to please read into the record the subcommittee report.

SUBCOMMITTEE REPORT

Mrs. Liz Sandals: Your subcommittee met on Wednesday, March 26, 2008, to consider the method of proceeding on Bill 8, An Act to amend the Education Act, and recommends the following—and I would move adoption of the following:

- (1) That the committee meet for the purpose of holding public hearings in Toronto on Tuesday, April 8, 2008
- (2) That the clerk of the committee, with the authority of the Chair, prepare and implement an advertisement strategy for the major daily newspapers and post the information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.
- (3) That interested people who wish to be considered to make an oral presentation on the bill should contact the clerk of the committee by Monday, April 7, 2008, at 5 p.m.
- (4) That the presenters be offered 15 minutes in which to make a statement and answer questions.
- (5) That the clerk of the committee, in consultation with the Chair, be authorized to schedule witnesses on a first-come first-served basis.
- (6) That the deadline for written submissions be Tuesday, April 8, 2008, at 5 p.m.
- (7) That amendments to the bill be filed with the clerk of the committee by Thursday, April 10, 2008, at 5 p.m.
- (8) That the committee meet on Monday, April 14, 2008, for clause-by-clause consideration of the bill.
 - (9) That the research officer provide the following:
- —background information on similar types of legislation in other jurisdictions; and

—a summary of presentations, by Thursday, April 10, 2008.

(10) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

The Chair (Mr. Shafiq Qaadri): If there's any discussion, the floor is open for such as of now. Any discussion on the subcommittee report? If not, those in favour of adopting the subcommittee report as read? Any opposed? Adopted.

HEALTHY FOOD FOR HEALTHY SCHOOLS ACT, 2008

LOI DE 2008 PORTANT SUR UNE ALIMENTATION SAINE POUR DES ÉCOLES SAINES

Consideration of Bill 8, An Act to amend the Education Act / Projet de loi 8, Loi modifiant la Loi sur l'éducation.

CENTRE FOR SCIENCE IN THE PUBLIC INTEREST

The Chair (Mr. Shafiq Qaadri): We will now move to the actual testimony from various presenters. I'd like to first of all thank you on behalf of the committee and, of course, all members of the Legislature, for your active participation and contribution to the legislative framework and to the political record.

First of all, just to announce the rules which hopefully will be strictly and forcefully followed: simply to say, 15 minutes per presenter, and if there's more than one individual, we'll distribute it internally there. If there is any time left over for questions within that same 15 minutes, that will be distributed very evenly amongst all three parties here.

Our first presenter—I'll remind him he has 15 minutes in which to present—is, by conference call, Mr. Bill Jeffery, national coordinator for the Centre for Science in the Public Interest. Mr. Jeffery, I invite you to begin. Perhaps you might just let us know where you are.

Mr. Bill Jeffery: I'm calling from Washington, DC. I'm at a conference here in Washington related to the Trans Atlantic Consumer Dialogue.

The Chair (Mr. Shafiq Qaadri): Wonderful. Please begin,

Mr. Bill Jeffery: Thank you, Mr. Chair, for the invitation to appear before the committee.

First, I'll tell you a bit about our organization. The Centre for Science in the Public Interest is a non-profit health advocacy organization specializing in nutrition issues, with offices in Ottawa and in Washington, DC.

Our Ottawa health advocacy is funded by 135,000 subscribers now, 65,000 of which are Ontarians, to the Canadian edition of our monthly Nutrition Action Healthletter.

CSPI does not accept funding from industry or government, and Nutrition Action does not carry advertisements

As you know, diet-related disease is a huge public health problem in Canada. Last year, the House of Commons standing committee on health even lamented that rising childhood obesity rates may cause this generation of children to have shorter, sicker lives than their parents. The typical Canadian diet contains too many foods rich in calories, saturated fat, trans fat, salt and added sugars, and too low in fruits, vegetables, legumes and whole grains. Every year, diet-related cases of cardiovascular disease, diabetes and certain forms of cancer prematurely end the lives of tens of thousands of Canadians and rob the Canadian economy of \$6.6 billion, according to Health Canada, due to health care costs and lost productivity.

Our report, Are Schools Making the Grade? School Nutrition Policies Across Canada, was released in Ottawa in October 2007. In it, we measured existing provincial school nutrition standards against benchmarks issued in April 2007 by the US Institute of Medicine, in conjunction with Canadian experts, in the Institute of Medicine's report, Nutrition Standards for Foods in Schools. The conclusion of our report was that many Canadian governments have weak nutrition standards, including Ontario. So we're pleased to see this development with Bill 8.

Furthermore, Canada is one of only a very few OECD countries without a national, publicly subsidized school meal program. In 2007, the US federal government spent about US\$11 billion subsidizing school meals, while Canadian provincial governments spent, collectively, less than C\$30 million. Put another way, Ontario's investment in school foods was approximately two cents per day per student. It's recently doubled, so now four cents per day per student. That compares, as you can see, very unfavourably to about \$1 a day per student in the United States.

We don't have solid, up-to-date evidence of what's actually being sold in schools in Canada since most provinces established those school nutrition standards, and every province has at least some form of it now. If provincial governments know, they aren't telling, but in 2006, the Globe and Mail newspaper conducted its own survey of 139 school boards across Canada. It concluded that most Canadian schools are still—in the Globe and Mail's words—"nutritional wastelands." In our assessment of provincial nutrition criteria, Ontario fared poorly,

like most provinces. It was one of three provinces to which we assigned an F grade, largely for setting weak limits on fats, sodium, calories and sugars, but also for applying only to foods sold through vending machines and meals provided by community volunteers.

Minister Wynne's Bill 8 is a very encouraging sign. In fact, to the best of our knowledge, it would be the first truly binding school nutrition standards, provided the standards are strong and compliance is monitored.

Sound nutrition standards are extremely important, to be sure, but for cash-strapped schools, selling junk food has an obvious appeal: low costs and a captive market of willing, undiscerning consumers. Presently, there is no pan-Canadian, publicly subsidized school meal program, and provincially funded programs, as I indicated, are small and piecemeal. All provincial governments, except Alberta, pony up some cash. The non-profit Breakfast for Learning Alberta charity helps fund some programs, but their combined annual investment was just \$5.95 per student in the 2005-06 school year. In British Columbia, that level of funding is now up to \$23 per student, and they have plans for a massive increase. So the British Columbia government, at least in this regard, is a bright light, and I would encourage the Ontario government to follow suit in that respect.

I want to give some specific clause-by-clause recommendations, if I can, about Bill 8. First, I should say that I read the transcripts of the debate from December, and I was generally very encouraged that it seemed all parties were prepared to support this bill. Some members advocated doing more, and I'd certainly like to encourage that.

In particular, I was encouraged to see what looked like a nascent accord on December 11 between MPP Rosario Marchese and Minister Wynne to put an explicit ban on synthetic trans fat directly into Bill 8. I hope the parties are able to agree to such language and insert a cominginto-force date directly into the text of Bill 8. In my written comments, I've proposed a drafting technique for doing that.

1600

In the spirit of co-operation, I hope that both sides of the Legislature will take some opportunities to take other important policy measures that could improve the health of Ontarians, especially children by:

—limiting the use of synthetic trans fat from restaurants, as the province of British Columbia and the Calgary Health Region recently promised to do, and as MPP John O'Toole mentioned with approval in the Legislature last December;

—ensuring children enjoy legal protection designed to shield adults from misleading advertising by protecting impressionable children by banning all advertisement to children under age 13, as Quebec did 28 years ago;

—aligning federal and provincial sales tax rules for foods sold in restaurants and grocery stores with government nutrition advice, by way of example, to consistently tax doughnuts instead of vegetables and lard instead of club soda, just two trivial examples;

—requiring basic nutrition information disclosures on large chain restaurant menus, as Seattle and New York City are now requiring;

—as I mentioned earlier, making a real financial investment in school foods, closer to \$1 a day than four cents a day, and pressing the federal and local governments to pitch in to subsidize healthy food for students.

I'd like to make a few more specific comments on the bill. First of all, on paragraph 29.3 of subsection 8(1), the minister's nutrition standard should be founded on science-based standards, we believe, specified by the Institute of Medicine report. This highly respected body sets nutrition standards used as the basis for Canada's Food Guide and the federally mandated nutrition facts labels for pre-packaged foods. I hope the Ministry of Education, perhaps in conjunction with the Ministry of Health and Long-Term Care, will initiate the consultations in such a way as to ensure that they can hit the ground running in efforts to enshrine nutrition standards and regulations when Bill 8 becomes law, rather than just waiting until Bill 8 becomes law and then initiating the consultation.

Furthermore, we encourage the Minister of Education to consider leading, with the provinces and federal government, the development of national school nutrition standards, based on the Institute of Medicine report and on the revised Canada's Food Guide to the extent that it is useful and in accord with contemporary nutrition science.

In addition to this, I noted that in Bill 8 there was some ambiguity about whether the nutrition standards would end up in the form of regulations or policies. You can see the difference in subsection 318(1) and section 319. We believe that nutrition standards should be promulgated in authoritative legally binding texts that are amenable to periodic updates, commensurate with scientific and public health developments.

With regard to special event days referred to in section 317, the scope and application of the yet-to-be-defined notion of special event days could leave open a loophole in nutrition standards that is vulnerable to abuse. The extent of this problem could be limited by taking one of three drafting measures. I'll just leave you to examine those three choices that I've put into the written comments, but suffice it to say this should be narrowed so that it is truly the exception and not the rule.

Then lastly, there should be some clarity in the bill regarding the supremacy of provincial nutrition standards in relation to catering contracts. There is some language in the bill that makes it unclear whether proposed clauses 320(f) and (g) mean that the regulations would trump the terms of the catering contracts or vice versa. We believe that the regulatory nutrition standards should prevail, of course, especially to ensure that vendors cannot escape the requirements of the regulation by providing schools with incentives to sign long-term contracts.

I would just say in conclusion that I would like to underscore how very important this precedent-setting bill can be for protecting and advancing the nutritional wellbeing of Ontario children and for helping to foster healthy dietary patterns that could persist into adulthood.

I urge the committee to ensure that the minister's nutrition standards are sound, that school food services practices are monitored, and that the Ontario and British Columbia governments continue to show leadership in expanding the pool of financial resources that can be devoted by all three levels of government to subsidizing truly healthy fare.

We all have a responsibility and, frankly, a self-interest in ensuring that future generations of children are at least as healthy as their parents, but we can, and should, set our sights even higher. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Jeffery. We'll have about a minute or so from two parties by request, starting with the Conservative side, if there be any takers.

Mr. Peter Shurman: I'll ask one question. Mr. Jeffery, this is a bill that stands in isolation and deals specifically with trans fats. It was presented following the government's announcement in the throne speech that they would be dealing with an overall diabetes strategy. So, in and of itself, the bill is one aspect and there's nothing anybody can really disagree with, and your testimony seems to substantiate that. Would you have preferred to see something more wide-ranging?

Mr. Bill Jeffery: I've read the bill very closely and I've heard this allegation that it's just about trans fat. Perhaps I completely misread the bill, but it seems to me that it's enabling the minister to set regulations specifying nutrition standards for all school foods.

I take your point that the minister may not exercise that power. I hope the minister does exercise that power. But certainly the bill, to my mind anyway, is much broader than just trans fat.

But to directly answer your question, certainly getting trans fat out of the school system certainly would not be sufficient by itself. There have to be good nutrition standards, some kind of enforcement mechanism, and then better funding for school foods.

The Chair (Mr. Shafiq Qaadri): We'll move to the government side, by request.

Mrs. Liz Sandals: Yes, just to say thank you, Mr. Jeffery, for interrupting your meetings down in Washington to speak to us, and to confirm as well that your reading of the bill is correct, that it does allow the minister to set a general nutrition guideline for food in school, and that the minister absolutely intends to do that. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Jeffery, for your time, your submission and the written materials.

Mr. Bill Jeffery: My pleasure.

HEART AND STROKE FOUNDATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I would now invite before the committee Mr. Rocco Rossi, the chief executive officer of the Heart and Stroke Foundation of Ontario.

Mr. Rossi, as you take your position there, I would perhaps also just like once again, on behalf of the committee, to first of all thank you formally not only for your presence today, but also for the extraordinary work that the Heart and Stroke Foundation does for all Ontarians, and indeed all Canadians.

Mr. Rocco Rossi: Merci, monsieur le Président. Je suis très content d'être ici parmi vous aujourd'hui.

I want to begin by expressing my appreciation and that of the Heart and Stroke Foundation of Ontario for the opportunity to provide input on this important legislation. We're always pleased to offer our advice and input to the government, particularly when we see the government moving in the right direction. So it's a particular pleasure to be here today in support of Bill 8.

Before I offer the foundation's comment on this legislation, I would like to take a minute to introduce ourselves for those committee members not familiar with us.

The Heart and Stroke Foundation of Ontario is a community-based, non-profit organization with over 40,000 volunteers, 300 staff and almost 30 offices spread from Chatham to Cornwall to Timmins. Our mission is to reduce the risk of premature death and disability from heart disease and stroke through research, advocacy, and public and professional education. We are part of the Heart and Stroke Foundation of Canada, a national federation that shares these goals.

This year alone, we will invest almost \$85 million in research, education, prevention and advocacy in the province of Ontario.

I have to say that with the recent death of Charlton Heston, I was reminded of the 10 commandments. In actual fact, there were 11 commandments, but while God felt it necessary to remind children to honour their parents, the Almighty didn't think it necessary to remind parents, "Thou shalt protect thy children before thyselves." It's hard-wired into every parent's being, and for millennia we have largely honoured that commandment. Sadly, we are at serious risk of breaching it on a societal basis.

1610

While people may think of heart attacks and strokes as health issues for the elderly or at least the middle-aged, the roots of these conditions can often be traced back to childhood. Canada's young people have never been more obese and therefore never more at risk than they are today. The rate of increase is simply breathtaking. Twenty years ago, childhood obesity was a relatively rare phenomenon: Only 3% of Canadian children and youth were obese. Type 2 diabetes was something in a textbook, but not a reality. By 2004, that figure had climbed to 8%, or some half million of our young people.

Today, here in Ontario, 28% of children and youth are either overweight or obese—in just a few years. That is an absolutely staggering and dangerous number. The situation is having an enormous impact on the health of our young people because of diabetes and other problems caused or exacerbated by excess weight.

What happens to the carriers of that excess weight a few years from now will be worse still. Between the ages of six and 12, children are learning to make decisions and beginning to make more choices on their own. They are developing eating and physical activity habits and attitudes that will carry with them for the rest of their lives. If they bring those extra kilograms and bad habits with them into adulthood, they are prime candidates for heart attack and stroke.

We can and must do something to help reverse this trend. Steps taken to reintroduce mandatory physical activity in our elementary schools and now legislation like Bill 8 are a place to start.

I would also like to commend Mr. Marchese for introducing a private member's bill to raise the important debate about food advertising to children. The proposed amendments to the Education Act outlined in Bill 8 provide an important opportunity to establish strong policies and guidelines for nutritional standards in schools well beyond the issue of trans fats.

Schools are an ideal setting to establish and promote healthy eating among children and youth. They are surrounded by peers and educators in an environment designed to help educate and guide them. The school environment influences healthy eating habits in many ways: through the foods that are available, nutrition policies, school nutrition and health curricula, and teacher and peer modelling.

These actions have been shown to work. Promoting healthy food choices and habits in schools has been shown in other jurisdictions to have a moderate to high impact on children's eating practices.

Unfortunately, healthy choices are often not available in schools. Trans fats in particular are not a choice; they're a killer. They are unsafe in virtually any quantity. The Heart and Stroke Foundation of Ontario estimates that consumption of trans fats could account for 3.000 to 5,000 Canadian deaths annually from heart disease. That's why the restricting of industrially produced trans fats in our schools is such an important first step, and I want to emphasize "first step," because as much as the foundation supports this legislation, we see it as just the beginning of what can and should be done. We see an opportunity for a broader impact. You can extend the trans fat ban beyond the boundaries of the school to a provincial trans fat strategy similar to what has been done in British Columbia. It should encompass restaurants, recreational facilities and other environments where children have access to food.

Who knows? You might even set an example by banning trans fats from the Queen's Park cafeteria, truly cutting the fat from government, one might say.

But our suggested strategy goes well beyond these restrictions. You can't solve this problem by only limiting the places where trans fat is sold. We must also educate young people to recognize and avoid these substances all of their lives.

We know that when people are informed, they are more likely to make healthy choices. So information about the nutritional value of foods and the health effects of lowering trans fats should also be made available to students. It should be provided through nutrition education at school and through public education programs.

Why not expand the use of the Eat Smart program in schools and adopt nutrition information programs such as Health Check? These programs have clear nutritional criteria and guidelines which could serve to expedite the process of setting standards within schools.

Why not build upon current successes, such as the student nutrition program and the northern fruit and vegetable pilot? These programs help ensure that all children have access to healthy foods.

You've clearly recognized the problem and, to your credit, want to take effective action. So why wait? Why reinvent the wheel? You have effective tools at your disposal today.

The current legislation, as has been noted, could be strengthened by requiring schools to adopt nutritional thresholds and standards for more than just trans fats. Other nutrients, including fat, sugar and salt, as set out in Canada's Food Guide, should, can and hopefully will be included. Then you would truly be tackling the root causes of obesity and the future bad health of our young Ontarians. The potential for savings in both lives and health care dollars is incalculable.

For now, we urge the government to move forward with passing and implementing Bill 8. We're pleased to see the ministry has already started the process to adopt nutritional standards within schools, as set out in the act. We'd like to see the government take the next step and begin the consultative process of setting guidelines immediately beyond the trans fat file.

To those who say government has no place in our cafeterias, or that this is an example of overprotection of our children, let me say this: If we fail to reverse the trend towards increased childhood obesity, if we fail to encourage physical activity, if we fail to provide good nutrition where we can and encourage it in every other place, if we fail to educate, protect and guide our children, we will truly have the first generation in history—absent war and pestilence—that does not live longer and healthier lives than its parents. Truly, we would be guilty of breaking that unspoken 11th commandment. That's the real danger to our children and our society.

So I ask those critics of Bill 8 if they're willing to take that risk or if, instead, we should be doing everything possible to give our children longer, healthier lives. This legislation is a helpful and necessary tool to help Ontario's youth make healthy choices today and learn healthy habits for a lifetime.

We endorse it and congratulate the government on taking positive action on this important issue. I'm happy to take any questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Rossi. We have about two minutes per side, beginning with Mr. Marchese.

Mr. Rosario Marchese: It's good to see you, Rocco. It really is hard to oppose the bill. I suspect that everyone

here supports it. The question is how we make it stronger, because as I said even when we debated the bill, as you look at the explanatory note, it simply says, "add provisions regulating" trans fats. It doesn't say "ban." The media thinks we're banning trans fats, as the media felt three years ago—when Mr. Kennedy was here—that we banned junk food. We didn't do anything of the kind. It's all very nice. The problem is that if it takes another three years to do another nice little thing, then the problems that you were describing are going to be serious and get worse. So how do we convince them?

Mr. Rocco Rossi: The devil is always in the detail of the actual regulation. We're encouraged, but hopefully we'll see that actually spelled out in the guidelines that follow and hopefully go beyond trans fat, as has been suggested and as was noted by the member.

Mr. Rosario Marchese: I'm going to try to introduce some amendments to make this stronger. I'm assuming people like you would support any amendment that makes this bill stronger; is that correct?

Mr. Rocco Rossi: Along the lines of the logic that we've spelled out?

Mr. Rosario Marchese: Absolutely.

Mr. Rocco Rossi: Absolutely.

Mr. Rosario Marchese: Thank you.

The Chair (Mr. Shafiq Qaadri): I now invite the member from the government. I remind you that you have about two minutes.

Mr. Dave Levac: Rocco, hi. It's good to see you again, as always. I asked for some time to do two things: number one, to thank you for your support and appreciate the science behind your proposal, because I understand you do an awful lot of research in the Heart and Stroke Foundation that is also the basis of some of the comments you're making today. So if you can confirm that, I think that's a fact.

Mr. Rocco Rossi: Absolutely a fact. The key thing about trans fats versus even saturated fats, which are a bad thing, is that trans fats have the double whammy of both reducing the so-called good cholesterol, the HDL cholesterol, and increasing bad cholesterol, so it literally puts heart disease on steroids.

Mr. Dave Levac: Okay. Second of all, I want to let you know that your program for defibs has worked. There was a life saved in my riding just a while ago because of the defibs, in which the Heart and Stroke Foundation has been a partner with the government and the municipalities. So I want to offer a true testimony and our congratulations for being there when we needed it.

Mr. Rocco Rossi: Thank you, and again I'd congratulate the government on the program. In the last 90 days alone, seven people have been saved in different communities across Ontario with defibs and CPR training that we've provided through the program.

The Chair (Mr. Shafiq Qaadri): To the Conservative side.

Ms. Laurie Scott: Thank you for appearing before us today. I also echo our appreciation for what the Heart and Stroke Foundation does, not only in the province, but in

all our communities. It is great that you spend a lot of money. I see the \$85 million in research, education, prevention and advocacy.

This bill is certainly the first step. From what we commented on in the Legislature, I think there's support. There's always the devil in the details, but certainly we're moving towards the right direction. We are responsible for our youth and the staggering statistics that you bring forward about the percentage of overweight and obesity in our communities. I don't have a particular question. I look forward to working with you as regulations come forward. So, again, thank you very much for appearing here before us today.

Mr. Rocco Rossi: I appreciate that. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr.
Rossi, for your submission and your presence today.

DAIRY FARMERS OF ONTARIO

The Chair (Mr. Shafiq Qaadri): We'll now move to our next presenter, and that is Mr. Peter Gould, who is the general manager of the Dairy Farmers of Ontario. As you'll have witnessed, Mr. Gould, you have 15 minutes in which to make your presentation, beginning now.

Mr. Peter Gould: Mr. Chairman, committee members and fellow panellists, I want to thank you for the opportunity to come here today and speak to you on Bill 8, the Healthy Food for Healthy Schools Act, 2008. As you've already said, my name is Peter Gould. I'm the general manager of Dairy Farmers of Ontario.

Like many of our other panellists and members of the committee, I have been fortunate to have some role in the work to improve nutrition in our schools. I have been with DFO for over 25 years, working to improve our industry for Ontario consumers, processors and our dairy farmers. To give you a bit of background, Dairy Farmers of Ontario is the group representing the largest sector of Ontario agriculture. Our members across the province produce more than 2.5 billion litres of milk every year on their 4,500 dairy farms. This nutritious commodity is also healthy for the Ontario economy. It has an on-farm value of over \$1.7 billion and creates thousands of other jobs in the food sector. We continue to appreciate the support we receive from members of the provincial Parliament, from all parties, in ensuring a vibrant dairy industry in Ontario.

One of DFO's most important programs is our successful elementary school milk program, which was launched in 1987. This program works to improve the health, daily nutrition and learning capabilities of Ontario's elementary school students. The elementary school milk program does this by helping to provide nutritious, fresh and easy-to-access milk every school day to elementary school students.

Dairy farmers, dairy processors and dairy distributors work together to make milk available in schools at a reasonable price. The current program operates with an annual budget of \$1 million, which funds turnkey administrative support, financing for fridges, educational and promotional materials, and contests. Annually, Dairy

Farmers of Ontario make an additional \$1-million nutrition education program investment and also spends about \$400,000 each year on the province-wide dairy educator program, which provides 6,500 classroom presentations.

This means that our total current investment in programs for Ontario schools is more than \$2.4 million every year. Dairy farmers have made it a high priority to work with the province to do even more to bring improved nutrition to our elementary school students. We hope to support the government's priority of improving children's nutrition through an expanded elementary school milk program. We are examining ways to partner with government to ensure that more children receive at least one serving of dairy each day at school. To further raise the profile of the importance of excellent nutrition for our children, Dairy Farmers of Ontario is offering to promote a future government-industry initiative by providing complementary milk to every Ontario elementary school student on the annual World School Milk Day, which this year is September 24.

I wanted to provide this overview of dairy farmers' school initiatives to demonstrate that Ontario dairy farmers are supportive of Ontario's significant steps towards improving the health of children in our school system. Across ministries, government has made children's health a priority through changes to the Education Act, such as the bill that we are discussing today, and with educational programs through the new Ministry of Health Promotion.

Other positive examples include mandating daily physical activity for our students to address childhood obesity, banning junk food in schools to promote healthy eating and offering Ontarians more open policies and opportunities to use schools in our communities. All of these policies have already shown positive outcomes.

The harsh reality is that we have a health crisis amongst our youth. Childhood obesity, diabetes and declining nutrition are severe issues that cannot be ignored. Like most presenting to your committee today and like the education minister and government crafting this bill, I am proud to be working in an industry that is facing these tough issues straight on and trying to help where we can.

Bill 8 adds to the positive policies I listed above. This important legislative change—banning unnaturally occurring trans fats in schools—will have meaningful, positive outcomes.

I am here on behalf of Dairy Farmers of Ontario to fully endorse the proposed changes to the current Education Act. This is a positive step in improving the health of our children.

We also believe that government should consider a healthier children's act to cover and protect all children of all ages. Let me repeat that again: We also believe that government should consider a healthier children's act to cover and protect all children of all ages.

A healthier children's act would house all legislation concerning children's health and nutrition and enable government to implement regulatory or legislative changes in a more timely fashion, instead of having to revise the Education Act.

We hope that these positive steps for children's nutrition can continue and that we can move beyond banning junk food and trans fats towards a more proactive, healthy policy for Ontario's children. We understand that it is not easy to implement or enforce this type of legislative change, but we applaud the government for taking on unnaturally occurring trans fats in our schools and fully support Bill 8.

I want to thank you for your time. If you have any

questions, I'd be pleased to answer them.

The Chair (Mr. Shafiq Qaadri): Thank you Mr. Gould. You have left ample time for questions—about three minutes each side—and we'll start with the government side.

Mrs. Liz Sandals: Thank you very much. I am pleased to hear that DFO is supporting the bill. I know about the good work you've been doing with the school milk program from some of my past life with school boards. Thank you very much for that.

I know that nutrition of children has been a big concern for a long time, and obviously, your members are aware that this is a ban on synthetic trans fats, not those found in dairy or ruminant meat products.

Mr. Peter Gould: That is correct, yes. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. To the Conservative side.

Ms. Laurie Scott: Thank you again for appearing here before us today. Certainly, the Dairy Farmers of Ontario have a great added value to all of us in the province, but also you have a huge financial and educational component that you take responsibility for, educating on healthy products and then financially assisting in these school programs.

You brought up the expanded elementary school program. I've been working with Dairy Farmers of Ontario, not just from my riding of Haliburton–Kawartha Lakes–Brock but from all over Ontario. I know that you're looking to further expand a certain product. Maybe I'll ask you about the DHA omega 3; while you have the opportunity, just to comment on that product line and the scientific benefits that have been proven in children of a certain age and development.

Mr. Peter Gould: Yes, certainly. Thank you for that question. DHA, which I hope most of you are familiar with, is one of the omega-3 fatty acids. Within omega 3, there are three, and DHA is the one that is most bioactive and has health benefits, especially for young children with respect to the development of their eyes and nerves and visual acuity and those types of things.

Milk right now is one of the few foods generally available to children that has DHA in it, and when I say that, not all milk; some milks. DHA is relatively difficult to obtain in the diet, fish being the primary source, but as we all know, a lot of kids don't eat fish. We see one of the benefits of having dairy products enhanced with DHA is that children can get access to the DHA through the foods that they normally consume.

We haven't made a direct connection yet to making those products part of the school milk program, but I think there's a very logical connection to do that.

Ms. Laurie Scott: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese?

Mr. Rosario Marchese: The bill says in the explanatory note: "The Minister may make regulations exempting from the trans fat standards any food or beverage in which the trans fat content originates exclusively from ruminant meat or dairy products." Have you had discussions with the government about this—the minister, minister's staff or ministry staff?

Mr. Peter Gould: No, we haven't had specific discussions. I think the reference is to the standard of trans fats defined by the Food and Drugs Act at the national level, which exempts ruminant meat and dairy. As I've said, we haven't had discussions, but we're comfortable with that definition.

Mr. Rosario Marchese: I'm just thinking, why was it necessary to say that? Why was it necessary for the government or the minister to say "may make regulations" to exempt you? I don't quite understand that. Do you have a sense of why this is even here?

Mr. Peter Gould: No, I'm not sure why it's there other than to spell out specifically that there are naturally occurring trans fats and there are what one of the previous speakers called industrial trans fats.

Mr. Rosario Marchese: Right. So why wouldn't you just be exempted? Why wouldn't they just say that?

Mr. Peter Gould: That is what I'm taking from the proposed legislation.

Mr. Rosario Marchese: I didn't read that, you see. That's why I was asking you, because it says they may do that or they may not. If they want to exempt you, why wouldn't they just say, "You're exempt"? That's why I was puzzled by it.

Mr. Peter Gould: As I said-

Mr. Rosario Marchese: Were you puzzled too, a bit?

Mr. Peter Gould: No, as I said, because in the act itself the reference is to the definition in the Food and Drugs Act, if you refer to that, which we did. This just spells out what's in the Food and Drugs Act.

Mr. Rosario Marchese: I understand. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese, and thank you, Mr. Gould, for your submission and for your presence today.

ONTARIO COLLABORATIVE GROUP ON HEALTHY EATING AND PHYSICAL ACTIVITY

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters, both registered dietitians, Rita Foscarini and Carol Dombrow, who are representing the Ontario Collaborative Group on Healthy Eating and Physical Activity. Welcome. As you take your seats, as you'll know, you have 15 minutes in which to offer your presentation. I think you've given us written materials as

well. I would invite you now to begin. Also, if you might just introduce yourselves individually for the purposes of Hansard and the public record.

But before we begin, Mr. Marchese.

Mr. Rosario Marchese: I just wanted to say how well you pronounced the name. It's so beautiful: Foscarini. That was very good.

The Chair (Mr. Shafiq Qaadri): Grazie, Senor.

Please begin.

Ms. Rita Foscarini: Thank you. We do have our

materials here. Is it appropriate—okay. Great.

Good afternoon, and thank you very much for the opportunity to speak to the committee. My name is Rita Foscarini and, along with my colleague Carol Dombrow, we have come here to speak to you today as registered dietitians and representatives of the Ontario Collaborative Group on Healthy Eating and Physical Activity.

The collaborative group was formed in 2004, and we have representatives from non-profit, health and academic organizations which address healthy eating, physical activity and health weights. I am also a member of the Ontario Society of Nutrition Professionals in Public Health. Carol is a consultant for the Heart and Stroke Foundation of Ontario. In addition, the Canadian Cancer Society, Ontario division, provides secretarial support for our group.

In past submissions to government, the advocacy subcommittee of the collaborative group has advocated for funding that supports the implementation of the recommendations in Dr. Sheela Basrur's chief medical officer of health report, Healthy Weights, Healthy Lives. The collaborative group believes that Ontario schools have an important role to play in not only teaching healthy eating but modeling and putting into practise healthy eating in all situations and activities where food or beverages are made available in our schools.

We believe, and therefore are every supportive of, the government's introduction of Bill 8. We applaud the government's amendments to the Education Act as outlined in Bill 8; in particular, the addition of subsection 8(1), that gives regulatory authority to the government, through the Minister of Education, to "establish policies and guidelines with respect to nutrition standards for food and beverages provided on board property, on school premises or in connection with a school-related activity." We also support the amendment that requires schools to "comply with the policies and guidelines."

We applaud the government in taking the lead in establishing province-wide policies and guidelines with respect to nutritional standards. This will eliminate duplication of effort and stop inconsistencies of nutrition standards that may exist in schools or school boards across our province.

A number of provincial governments have already taken the initiative to set policy directives and guidelines—for example, Nova Scotia—in creation of the food and nutrition policy for Nova Scotia's public schools.

Here in Ontario, from my experience in working in public health, we have a number of examples of schools and some school boards that have taken the lead in creating a healthy school nutrition environment and setting policies and guidelines. We applaud those situations.

However, these schools and boards are still in the minority. Most schools are looking for direction from their respective boards on this issue, and I believe that these boards are looking to the Ministry of Education for direction. It is therefore imperative that Ontario schools become exemplary environments for healthy eating. In order to do so, the Ontario Collaborative Group of Healthy Eating and Physical Activity would like to make some further recommendations.

Bill 8 currently outlines restrictions on what can be offered for sale to pupils in cafeterias and in vending machines in schools. The proposed Bill 8 will then have most of its impact in secondary schools as opposed to elementary schools, as they generally do not have caféterias and many don't have vending machines. Further to that, the bill makes an exemption for foods and beverages prepared or sold during special event days in schools.

Our group feels that it is extremely important that this exemption be removed from the legislation. First of all, these special event days primarily occur in elementary schools, so our youngest students are the ones who would be most affected by this exemption. Secondly, special event days so far have been expressed by the Premier, the media and by the Minister of Education in a letter as pizza days.

Pizza days or other such special food days can occur regularly in schools. I've heard of these occurring every two weeks throughout the school year. What of other special event days? These could be classroom events, such as decorating cupcakes for Valentine's Day, food served at regular school functions during the day or evening, classroom celebrations for the number of books read, or food-sponsored sports days where there might be a full day of physical activity, with sponsored food provided that is not in keeping with good health and not in keeping with healthy eating.

Bill 8 proposes that the minister prescribe the meaning of special event day. We recommend that the exemption for special-event days is problematic, and that these are regular and frequent occurrences in our elementary schools in particular. We therefore recommend that the exemption for special food days be removed from Bill 8.

In order to send a clear message to Ontario students, there must be consistency across the board for all foods and beverages that are presented in a school setting. In many of Ontario's elementary schools, special food days are the place where children, independent of any caregiver, come to school with money to make an independent decision about the food choices or the beverage they wish to have that day. We are suggesting that this exemption, in doing this, we are missing a great opportunity for students to make nutrition the healthy and the easy choice for that child.

My colleague, Carol, will now provide further comments regarding Bill 8 and the collaborative group's recommendations.

Ms. Carol Dombrow: Good afternoon. My name is Carol Dombrow. As Rita mentioned, I'm a registered dietitian and nutrition consultant for the Heart and Stroke Foundation for Ontario and Breakfast for Learning. I'm here representing the Collaborative Group on Healthy Eating and Physical Activity. I also had the opportunity to help develop the nutrient criteria for vending machines for the Ministry of Education in 2004.

In January 2007, our group, in conjunction with the Ontario disease prevention alliance, developed a proposal for improving food and beverage choices in Ontario schools. This was submitted to the Ministry of Health Promotion, chronic disease prevention and health promotion branch.

In this proposal, the groups provided a plan to involve key stakeholders, including education, health sectors, agriculture and food industry, along with parents and students in the development of food and beverage guidelines. The proposal outlined steps that can be taken from development to implementation of food and beverage standards. The proposal discussed voluntary guidelines for food and beverages sold and served in Ontario schools, though, with the introduction of Bill 8, consistent mandatory food policies would assist with improving food choices in schools right across the province. 1640

This proposal included: developing a long-term strategy that moves toward healthier alternatives for all instances where food and beverages are offered or sold in a school setting, including fundraising and special events; examining best practices that already exist in schools and school boards in the provinces and jurisdictions and learning from these experiences; and establishing long-term benchmarks and indicators of success for continuous evaluation of the Healthy Food for Healthy Schools Act.

The collaborative group recommends that a comprehensive provincial school food policy be developed to ensure that healthier food and beverages are sold and served in Ontario schools. Limiting trans fat in food and beverages is one step in moving toward a healthier food supply, but does not ensure that the foods being served in schools will necessarily be healthy. A more comprehensive provincial school food policy is necessary to ensure that all food and beverages available in Ontario schools be consistent with the direction and recommendations in Eating Well with Canada's Food Guide.

We need to ensure that levels of saturated fat, sodium, sugar, calories, as well as appropriate portion sizes are considered in the development of a provincial school food policy. We also need to make sure that healthy foods are affordable. In order to make significant changes in Ontario schools, it is imperative that consultation involving educators, administrators, parents and students are all included in the process to develop new standards and that the schools are equipped with tools to make the necessary changes.

In closing, the Ontario collaborative group recommends: that the proposed amendments to the Education

Act, as outlined in Bill 8, subsection 8(1), items 29.3 and 29.4 be approved; that the exception for "special event day" be removed from the proposed legislation; that a comprehensive food policy be developed that includes the restriction of trans fat, but goes beyond that to ensure that all foods available in schools reflect the recommendations in Eating Well With Canada's Food Guide; that stakeholder consultation is used to develop more comprehensive school food policies and; that necessary tools are developed to assist with the implementation of the new policy.

We would like to reinforce that having healthy foods and beverages available is only one component of a comprehensive nutrition strategy that is essential to establish a strong foundation for the development of healthy kids in Ontario. A comprehensive nutrition strategy also includes a supportive curriculum, integrating nutrition education into all grades; providing students with media literacy skills which, depending on what happens with advertising to children, they may need very strongly and; ensuring that teachers and educators are given the appropriate training necessary to be able to guide students toward healthy alternatives and be positive role models for their pupils.

Our group would be happy to provide assistance wherever necessary to ensure strong legislation that will work toward truly healthy school environments for Ontario children. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Dombrow and Ms. Foscarini. I now invite the Conservative member for one minute, which goes by briskly.

Mr. Peter Shurman: There's just one thing that concerns me. First of all, congratulations on an excellent presentation. You have described the perfect world. And it's not a perfect world. I've raised two kids the same way, and one eats terribly and the other one is fantastic. Don't ask me why, but I think a lot of people in this room can relate to that.

I just want to ask you about "forbidden fruit syndrome"—my term. If you decide that you're not going to serve a hot dog once in a blue moon, on a special events day, and you create this forbidden fruit by never serving it, don't you run the risk of having people run the other way and eat them all the time, when they can?

Ms. Carol Dombrow: Personally, I don't think so. Do you know what? We have a captive audience in schools. If we provide healthy foods there, the children are going to eat the healthy foods. Someone's shaking their head, but I think it's the same thing at home. If you have healthy foods there, that's what your children are going to learn to eat. I agree that they're still going to go to fast-food restaurants and they're still going to eat outside of the school's property, but I would think that the majority of times, if healthy foods are available, that's what's going to be available to them, that's what's going to be easy and accessible and that's what they'll choose.

The Chair (Mr. Shafiq Qaadri): To the NDP.

Mr. Rosario Marchese: Two quick questions, if I can. The government, in the English text when they

introduced this bill, said they're dropping trans fats. In the French text it says "l'élimination" of the trans fats. In your document you talk about "Expand the prohibition." The bill says "regulating." What do you make of all this? Are we prohibiting, eliminating, dropping or regulating; and what does "regulating" mean to you?

Ms. Carol Dombrow: I would hope that they would follow the trans fat task force recommendations that were put out by Health Canada; and Heart and Stroke cochaired the committee. So I'm hoping that we're all talking the same language and they will be following the same recommendations from the trans fat task force.

Mr. Rosario Marchese: Has any MPP or ministerial staff or anyone said that's what they would do, or you're just hoping?

Ms. Carol Dombrow: I'm not sure. I haven't spoken to anyone directly, so I don't know. But it would only make sense that the same recommendations were followed provincially as are recommended nationally.

Mr. Rosario Marchese: You would think.

The Chair (Mr. Shafiq Qaadri): To the government side

Mrs. Liz Sandals: Thank you very much for your expert advice, and just to assure you, it has been said a number of times in Hansard by both the minister and myself that our intent is to use the Health Canada definition of "trans fat-free."

Ms. Carol Dombrow: Excellent.

The Chair (Mr. Shafiq Qaadri): Thanks to you both on behalf of your group, the Ontario Collaborative Group on Healthy Eating and Physical Activities, Ms. Foscarini and Ms. Dombrow.

FOOD AND CONSUMER PRODUCTS OF CANADA

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward, Ms. Phyllis Tanaka, vice-president of scientific and regulatory affairs on food policy, and Ms. Catherine Abel, manager of provincial policy and government relations, for Food and Consumer Products of Canada. Welcome. I would invite you to begin now.

Ms. Phyllis Tanaka: Thank you for this opportunity to speak to the standing committee on social policy on Bill 8. We'll begin by introducing ourselves. As mentioned, I'm Phyllis Tanaka and I'm the vice-president of scientific and regulatory affairs for Food and Consumer Products of Canada.

Ms. Catherine Abel: My name is Catherine Abel and I'm the manager of policy and government relations for Food and Consumer Products of Canada.

We are here today on behalf of food and beverage companies from across the country. Our members range from small, independently and privately owned companies to large, global multinationals, all of whom manufacture and distribute in Canada. Our members represent 80% of the food sold on grocery shelves today.

We appreciate the opportunity to speak to you today about how we, policy-makers and industry, can best encourage healthy eating among children and youth in Ontario and across Canada.

Bill 8 is very important, because it prohibits the sale of foods containing certain amounts of industrial trans fats and it enables the development of province-wide nutrition policies designed to encourage healthy eating patterns in Ontario's public schools. FCPC and its member companies support both these measures because they are consistent with the industry's own efforts to help fight childhood obesity.

FCPC member companies are in fact transforming the food supply through innovative product reformulation, making it easier to stock healthier foods in Ontario schools. In addition to reducing sodium, trans fat and sugar in existing products, companies are investing significantly in new product development. Canadians have access to a wide range of affordable products, including those enhanced with nutritional value with the addition of omega 3, as we heard mentioned earlier, calcium, fibre and vitamins. FCPC member companies are leaders in food science and are using that knowledge to advance Canadians' health.

A few years ago, FCPC conducted research across our member food and beverage companies to capture their product reformulation progress. The survey showed that in 2004, 62% of food companies surveyed introduced new health choice products; 41% of companies introduced products with less fat, 13% introduced products with no fat, and 19% introduced products with no trans fat; 22% of companies introduced new products with less sugar, 13% introduced products with no sugar; and 62% of companies also reformulated existing products to be healthier. Elimination of fat, particularly trans fat, was even then a priority focus of reformulation. Finally, 23% of companies made packaging changes to address concerns about overly large portion sizes.

1650

FCPC recently went back to our member companies, and an initial analysis of the results shows that companies continue to make significant progress in two key areas. Companies continue to reduce the nutrients that have commonly become known as the nutrients of public health concern, namely fats, sugar and sodium. And companies are adding beneficial ingredients and nutrients to products, for example, added fibre, use of whole grains and addition of omega 3 fatty acids.

Not least of all, reducing the levels of industrial trans fat in the food supply remains a top priority for the food industry. In June 2006, industry reiterated its commitment to cut industrial trans fat in the food supply and to achieve the following threshold by June 2009: limit the trans fat content of vegetable oils and soft spreadable margarines to 2% of the total fat content and limit the trans fat content for all other foods to 5% of the total fat content, including ingredients sold to restaurants.

These measures are in accordance with recommendations by the federal trans fat task force. Co-chaired by

Health Canada and the Heart and Stroke Foundation, the task force was convened in November 2004 to provide Health Canada with strategies to reduce the amount of trans fat in Canadian diets. FCPC was also an active member of the task force and fully supported its recommendations to government.

Food companies submit reformulation data to Health Canada as part of the government's ongoing monitoring program. Health Canada has committed to publishing the progress updates approximately every six months over the next two years. The first set of data, published in December 2007, demonstrated significant improvement across all classes of prepackaged foods. For example, based on an analysis of prepackaged products sold in grocery stores in 2006, the following products met the 5% trans fat limit: 60% of cookies, 85% of crackers, 75% of frozen potato products and 83% of frozen chicken products. The foods that were sampled represented the top-selling brands for each food category and accounted for more than 80% of sales within that food category. The full set of data and product lists are available on Health Canada's website. We've included the website address in our written submission provided in your packages.

Given the significant improvement these results demonstrate, it is important that provinces in the process of developing trans fat policies ensure they are aligned with the federal approach. Canadians' health is best achieved when consistent policies and standards are applied across the country. Ontario can benefit from the task force's work and the reformulation progress already achieved by ensuring its policies are aligned with the federal approach of achieving the 2% and 5% limits within the next two years.

FCPC therefore recommends to the committee that, following the passage of Bill 8, Ontario develop guidelines that limit the allowable percentage of trans fats in products to 2% and 5% of the total fat content, as recommended by the trans fat task force. It is important to note that the trans fat task force recommendations are not federal regulations. Rather, they provide living guidance to industry and may change over time as the allowable limits are achieved, potentially adjusted to reflect industry's continuous improvement and to address the practical realities of specific product categories. For example, low fat products are by definition limited to a low total fat content. But because the task force recommendations specify that trans fat can only be a percentage of total fat in a product, low fat products are disproportionately impacted. The lower the fat, the lower the allowable trans fat. The allowable limit of trans in low fat products may be adjusted in the future to address this issue. Similarly, products such as yogourt with granola contain a mix of naturally occurring trans—that is, originating from ruminant meat or dairy products—and industrial trans. These foods present a challenge because, when you add the natural trans and the industrial trans amounts together, they can exceed the 5% limit of total fat. This is another example where the allowable limit may be adjusted in the future to address the practical considerations of the food category. Therefore, FCPC strongly recommends that in order to ensure continuous improvement and the ability to make future threshold adjustments, Ontario consider using guidelines rather than a prescriptive regulatory approach.

Finally, we'd like to address the second important objective of Bill 8, which is to enable the development of school nutrition policies designed to promote healthy eating patterns in children and youth.

FCPC was pleased to accept a recent invitation to serve on the multi-stakeholder committee tasked with developing those nutrition policies. As you heard at the beginning of this presentation, the food and beverage industry has an important role to play in ensuring that children and youth can choose from a wide range of safe, affordable and healthful products. By reformulating products lower in calories, sodium, sugar and fats, as well as reducing portion sizes and offering alternative packaging options, favourite brands can fit healthier profiles. These innovations are ongoing and will continue to accelerate. In fact, the healthier-for-you food category is one of the fastest-growing categories in the grocery store. FCPC looks forward to working with the Ministry of Education as a member of the multi-stakeholder group.

In closing, FCPC appreciates the opportunity to address the committee on social policy on this important piece of legislation. We look forward to working with ministry officials to make the provisions of Bill 8 a reality. Thank you, and now I'd be happy to take some questions.

The Chair (Mr. Shafiq Qaadri): Thank you very much. We'll have about a minute or so with Mr. Marchese to start.

Mr. Rosario Marchese: Yesterday, I introduced a bill in the Legislature that would ban commercial advertising on food products and drinks to kids under the age of 13. Is it a fair assumption that you don't support that bill?

Ms. Catherine Abel: The view of FCPC members is that childhood obesity is a very complex problem that requires multiple solutions.

Mr. Rosario Marchese: Right.

Ms. Catherine Abel: I also want to make the point that the food industry has a very important role to play in helping fight obesity, and that's why 16 leading food and beverage companies, representing 90% of advertisements in children's programming, have committed to shifting their advertising directed to children under 12 to the promotion of healthier dietary choices and healthy, active living.

Mr. Rosario Marchese: Let me ask you a quick question. Dr. McKeown says that we should do this, based on the bill that I introduced, and he also says, based on their study, that a lot of the products that are advertised to kids are rich in calories—the majority of them—and poor in nutrients. Do you agree with that?

Ms. Catherine Abel: No. If you look at the provisions of this voluntary program that the major food companies

have undertaken, you'll see that in fact eight of those companies actually no longer advertise to children at all.

The Chair (Mr. Shafiq Qaadri): I'll have to intervene there. Thank you, Mr. Marchese. To the government side.

Mrs. Liz Sandals: Yes, just to say thank you for presenting to us today. I'm pleased that you'll be continuing to work with the committee. Just for the information of members, there is a working group that has a variety of stakeholders—dietitians, Heart and Stroke, a variety of people—who will be working on the committee to look at the overall nutritional guidelines. So we're pleased that this work is going forward with professional advice.

Ms. Catherine Abel: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Shurman.

Mr. Peter Shurman: The last group addressed the issue of special event days and seemed pretty firm in their position on no exemptions. The bill entertains exempting special event days and you haven't alluded to it at all. You're a registered dietitian, are you not?

Ms. Catherine Abel: Phyllis Tanaka is.

Mr. Peter Shurman: What is your stance on special event days and the exemption?

Ms. Phyllis Tanaka: I think it's not as straightforward as just getting rid of that kind of program. I would go back to an earlier comment that children need to have the opportunity to have hot dogs once in a while. As long as the foundation at the school is one of healthy, active living and nutritious food as the basis, then the school food policy exemption for special events should not prove harmful.

Mr. Peter Shurman: Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you both, Ms. Tanaka and Ms. Abel, for your representation and materials on behalf of Food and Consumer Products of Canada.

COMPASS GROUP CANADA

The Chair (Mr. Shafiq Qaadri): I would now invite Ross Munro, president of Chartwells Education Dining Services, from Compass Group Canada. Mr. Munro, welcome. As you've seen, you have 15 minutes in which to make your presentation. I invite you to begin now.

Mr. Ross Munro: Thank you very much. We support Bill 8 and the initiatives of the government of Ontario to create guidelines and regulations governing nutritional standards for all food and beverages provided on board property, on school premises and in connection with a school-related activity. We believe in the importance of working together with the provincial government on issues that concern the overall health and welfare of our youth. We believe that a bright future for our youth begins with a focus on the delivery of nutritious options and healthy foods for students in our schools.

The only way to do this is via government support that includes key educational messages and ongoing encouragement that is delivered within the school system beginning at an early age. We believe that Bill 8 can assist the provincial government to deliver strong messages about the importance of healthy eating and promote a positive influence on this critical undertaking.

Delivered effectively, over the long term we believe the outcome of this key messaging will be very important with regard to the health and health-related issues facing Ontarians today, including the increase we are witnessing in childhood obesity, diabetes and, of course, rising health care costs.

We have been proactively involved in developing nutrition-based programs that offer healthy, balanced choices for the past several years, including participation in the Eat Smart advisory council, which is a highly successful program, in our view.

Chartwells Education Dining Services has been working toward reducing the amount of artificial trans fats found in the foods we serve since November 2006. We will be compliant with the recommendations from the Canadian Trans Fat Task Force, Health Canada, 2006, that oils and margarines contain less than 2% trans fat by June 2008. We will be compliant also with the recommendation that total trans fat content be limited to 5% of total fat content on all other foods by March 2009.

Just a little bit of who we are and what we bring to the table: We are a member of Compass Group Canada. We provide food services in 37 boards in the province of Ontario, 17 community colleges, and numerous universities in the province. We serve kindergarten through grade 12. We serve higher education, offering programs and solutions to fit unique needs to students. We are committed to providing responsible, healthy eating solutions and nutritional education to our customers. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Munro. We have lots of time for questions, perhaps even four or five minutes each side, beginning with the government.

Mrs. Liz Sandals: It's good to get an update on how a company that services a lot of major contracts in caféterias is moving along the spectrum in terms of evolving to be able to meet the guidelines. So thank you for sharing that information with us.

The Chair (Mr. Shafiq Qaadri): To the Conservative side.

Ms. Laurie Scott: I just want to thank you for appearing before the committee today. Your presentation was excellent. We have no questions.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese?

Mr. Rosario Marchese: Mr. Munro, you talked about schools and the importance of teaching—I think you said—healthy eating.

Mr. Ross Munro: Yes.

Mr. Rosario Marchese: How do we compete—teachers, dietitians or anyone who is trying to promote healthy eating—in the face of billions of dollars that are spent yearly to promote products that are rich in calories and poor in nutrients? How do we compete with that?

Mr. Ross Munro: I think we start at home. It is certainly education- and home-based. We make it fun. In our operations, during Nutrition Month as an example, we have contests where the school that serves more healthy meals by percentage of meals served, relative to the past, in a particular school board will get a prize. Similar to what you would see at Shopper's Drug Mart when you buy the shoe and put it on the wall, we have a program that says, "You were caught making a healthy choice." We have got to make these things fun. We have to make them cultural. They do begin at home, and they blend with education, home and folks like ourselves to ensure that we deliver.

Mr. Rosario Marchese: So, Ross, those are nice ideas.

Mr. Ross Munro: Yes.

Mr. Rosario Marchese: How do we compete with commercial advertising, where we're commercializing our kids, where they're sitting in front of the television? I know it starts at home, but a lot of parents are working overtime, now more than ever. A lot of parents have two or three jobs. Kids are sitting in front of the television. They're watching commercials that simply tell them that a lot of the products they're seeing are good. They go to Mom and Dad and say, "I want that." They go to Grandpa and say, "I want that." How do we deal with that?

Mr. Ross Munro: Our view is that balance is what it's about. Somebody talked earlier about the forbidden fruit, and that has always been my concern in the provision of healthy food in school cafeterias. I have a 19-year-old son and a 16-year-old son, and I heard the gentleman opposite talking about how he's got one who eats well and one who doesn't. I think both of my sons eat relatively well, but every once in a while we're going through the drive-through. That's the bottom line. So it's not about competing with—well, it is about competing, to some degree, but it's about an acknowledgement that this exists, and that occasional is really quite okay. It's about teaching people what choices to make, even if you don't make them every day. It comes back to the education.

Mr. Rosario Marchese: One last question: Everyone supports Bill 8, it appears. A lot of them are simply saying we could be bolder. Do you think the government could be bolder and do a little more, or do you think we're going at it in a way that is progressive, manageable and so on?

Mr. Ross Munro: Our program, corporately, is called Balanced Choices, so I believe in a balanced approach. I do believe it's more about educating and encouraging than it is mandating, because I think we get better participation.

Let me just share with you that when we have mandated—I heard a lady earlier mention the province of Nova Scotia, and I could name other provinces; we are a national organization—when we get too aggressive in our mandate, what we see is a leaving of the school property, a leaving of the campus, to go and acquire things in other

places. The issue there is twofold. First is the issue of students leaving the campus, which means the potential injury and so forth of them leaving the campus. The other piece is that it takes away a little bit of the community. So while I absolutely embrace, and we have a skyrocketing use of, the balanced choice programs in our facilities, it is still important to understand that if we don't offer routinely—not every day necessarily, but if we don't include—we will lose a good majority of the people who will vote with their conscience—

The Chair (Mr. Shafiq Qaadri): Mr. Munro, I'll have to intervene there. Thank you Mr. Marchese, and thank you for your submission on behalf of Compass Group Canada.

LUNCH LADY GROUP INC.

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter, Ms. Ruthie Burd, who is the president of the Lunch Lady Group. There is a written submission, which I trust all the members of the committee have received.

Mr. Dave Levac: Mr. Chairman, while they're setting up, just a quick question. I checked my pile, and there have been a couple of deputations where we didn't have a written submission. If we could get those submitted afterwards, because I think they might submit them after, I'd appreciate that.

The Chair (Mr. Shafiq Qaadri): Certainly. If there are any deputations for today, I direct the clerk to submit that to you. As well, I think there are some coming only as written deputations later.

Ms. Burd, please begin.

Ms. Ruthie Burd: Thank you. First, thank you very much for the opportunity to be here today. My name is Ruthie Burd, and I'm the president of the Lunch Lady Group.

I want to tell you a little bit about our company, because I'm also speaking to you from the other side of the fence. I am a food service provider. Our company makes probably in excess of 9,000 meals per day now for kids at school. Most of our programs run one day per week in school.

1710

About 15 years ago, I was faced with a situation. I have one son who has autism, and I needed a job that I made myself. I didn't really know what to do, and I came up with this idea of lunches for kids at school, because it happened at noon and I'd be able to take him to speech therapy in the afternoon. That was the only motivation. I didn't know anything about cooking; I couldn't cook, as a matter of fact. My mother had died when I was 13, and my dad and I lived on Dinty Moore beef stew all through my high school years. It's a very good thing there wasn't the availability of fast food that there is now, or I'm sure I would have a serious weight problem now, because we did whatever was convenient. It never occurred to my dad and me to learn how to cook; we just did what we felt was most convenient for us. But we got through, and

my dad, bless his heart, gave me a lot of great life ideas about how one should do things in life, and how one should always go ultimately with their gut and with their conscience

So I found myself in a business, making lunches for school kids in an environment where no one believed anyone needed lunches for school kids. Fifteen years ago, nutrition was strictly a poverty issue. I went to several meetings of different coalitions and it was all poverty-related. It wasn't seen as a convenience problem. In many respects, the crisis we face today is all about affluence and the availability of too much food sold in bulk at too good of a deal price and our desire to have treats all day long.

It was interesting. The one gentleman was talking about removing hot dogs, and I think fries or whatever, from school offerings, as though kids would not have any other opportunity to eat hot dogs. I have a son, and if we had them in the fridge, he'd eat them raw out of the pack, and the whole thing as well. So I live in one of those houses where we never have anything really decent to eat, but if I bring in a treat, I expect it all to be gone. I don't tell my children how to eat it, because kids do not eat like adults think they do. If we have a huge box of Fruit Roll-Ups and we want them to manage it one a day, for two weeks—they don't eat like that. They'll eat every Fruit Roll-Up until it's all gone. Anyone who has kids knows they do that. So don't bring it into the house unless you want them to eat it.

What happened in our business—I'll backtrack a bit. Eventually, one school, after two years, agreed to start the program, which was a great relief to me because my husband was getting tired of throwing money into my business on a monthly basis. So he was most relieved. Today, the Lunch Lady serves in over 410 schools. We're in three provinces and we're just starting in our fourth province.

Along the road, we started taking a really good look at how kids eat at school. There is a lot of scary stuff going on at school, and we know this because we're the ones who are delivering food every day. Teachers are usually in the staff room, and the principal as well. We're the ones who are delivering in the classrooms, and we go and see what's in the garbage. We have an invasion of snack food, truly an invasion. We see no full potato chip bags in the garbage, but we see whole apples, sandwiches and whole lunches. Parents, in wanting to compensate their children for eating the whole wheat sandwich they packed, and a good sandwich—we see a lot of great sandwiches in the garbage—have given them a granola bar, cheese and crackers; that kind with the little dippy thing, which is nice for a little treat, but it has become an everyday occurrence. Sometimes it's a chocolate bar or a selection of small chocolate bars because you don't want to give them a big chocolate bar, because that would be too much sugar.

Fruit-laden fruit punch—and I've even had parents call me to ask if a Fruit Roll-Up with vitamin C would be considered a fruit choice. People are really, truly—when

you say victims of the media, it's really very true in some respects. Parents don't send the things they send in lunches because they want to be bad parents; they want to reward their children for eating the healthy sandwich they prepared for them. But that's not how things work at school.

The interesting thing in what we've seen, or what we've decided to do as a company, is that you really have to set the mark somewhere. You really have to take a stand and stick to it. We read a paper several years ago—well, maybe not that long ago—that was written by Lucy Valleau, who wrote a paper called Call to Action. Lucy lives in York region, and we serve her daughter, actually. She's at one of the schools we serve. We read that—my father told me about conscience and about the right thing to do. Honestly, I read that and I thought, my gosh, how can we do that as an organization?

I have to tell you that since we switched the white buns for whole wheat—whole wheat wraps, everything else—our business has grown in the last 12-month period, from 285 to 410 schools, and growing on a daily basis. We now have 33 kitchens that offer Lunch Lady lunches and we've created a whole industry of competitors that didn't want to pay my franchise fee—what can I do? But they thought, "What a great business to get into." All over the place there are businesses springing up and they're serving whole wheat buns because we've set an expectation that there'll be whole wheat buns in school.

I've got a whole bunch of notes here but I'm probably not going to read any of them.

I'm just thinking that it's up to the Ministry of Education, the government, to set standards of what they think is in the best interests of kids at school. I'm out here in the marketplace. It's up to me, it's up to food providers, it's up to us to meet your requirements. The school marketplace is a huge market, and it's a market where for business there is profit. It's a business like anything else, but that doesn't mean we can't be profitable and do the right thing at the same time. Who says we can't do that?

We have the food ideas. They're called different things, depending where you read: "maximum," "moderate," "minimum," or they're called "eat always," "eat sometimes" or "eat seldom." The problem, when you go into a high school cafeteria, is that they'll say, "Yes, okay, french fries." There's nothing wrong with french fries. I've been to the drive-through. I take my kids to McDonald's on occasion. Every now and then I have to have a Big Mac; I want to have it. There's nothing wrong for me to do that on my time. But when you're in school, if you're in a cafeteria, who's telling you that you can't have french fries 100% of the time? Doesn't "eat seldom" only mean "eat seldom" if you eat it seldom? If you eat it every day, is that eating seldom? That's not; that's eating more than sometimes. If you have three cookies with your lunch, if you buy three cookies, that's not seldom. That's a lot at one shot.

In the middle of it, we have to recognize that there are plenty of opportunities to get cookies at home. There are plenty of opportunities to go to McDonald's or to the drive-through. It's a treat; there's nothing wrong with it. There's no bad food, but there are some foods you should eat a whole lot more of than others.

If you're sitting in an elementary school room and they're teaching you the curriculum—what healthy eating is at school is right in the curriculum—and then it's giant cookie day at school, what does that mean in terms of what adults tell you? Really, honestly, what does that mean?

In our experience in changing how we deliver our product—BC has legislation that's been mandated and is quite all-encompassing. I attached a copy of an article that appeared in a paper about our kitchen in Coquitlam, which serves school district 43. Yes, it was difficult—no question. Is it the right thing to do? We as a company really feel so and we really pushed our franchisees to do it.

It's doable if we all work together. If we all keep our focus on the fact that what we want to do is in the best interests of kids, educating parents—gosh, parents want to do the right job but, holy smokes, if you're arguing about the planner and if they did their homework, when they start nagging you for Fruit Roll-Ups and all those goodies to throw in the lunches, it's really hard to say no. Yes, maybe it should all start in the home, but that's not working. Parents know what's good for kids; I'm sure we all know. It's just that people get wrapped up and there's peer pressure.

Having the right snack at school is like having the right brand of shoes. There are cool snacks for kids at school, and if you get into the system and talk to kids, you know how challenging that environment can be to work in. It's truly an amazing environment. But if you give kids the chance, you'll find that they'll try all sorts of things, because peer pressure is a wonderful thing. If you have sushi on the menu or something more exotic, like a Sahara picnic plate—there was one we really liked. It was hummus, but it was legume-free hummus because we had to be modified for allergies, and pita, veggies, some fruit, and a fortune cookie so you could tell your fortune just for fun. You'd be surprised; kids will try that. They will. You should have more faith in kids. We should have more faith in kids. We have to. We're the guys who sit and tell them to eat breakfast, and we drink a cup of coffee. It's all that stuff. Who's going to fill in for us?

1720

The school is the one environment we can control. The school is the one environment where we can have some control and really assist kids. I invite you, and I'd be happy to take you on a tour, to see what's really happening in our schools.

Before I close, because I'd love you to ask me some questions, I was at a school council meeting—this is absolutely true, and I'll never tell you, no matter what you do, twist my thumbs or anything—and before me, they were saying that they wanted to raise funds to have a fruit and veggie day in the school. I was thinking: "That's

great." Isn't that really great? It would be universal for everybody; they'd raise funds. They were going to raise the money by having a KFC day. Nobody thought there was anything remotely unusual about that. So that's the point where I'll leave you.

Again, thank you so much for the opportunity to speak to you. Anything I missed, I'm sure is in my notes somewhere. I think the refining food industry coming to us to ask us if they can make food for us—they want our business. It's a whole thing, but it has to start with somebody taking a stand.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Burd. We'll begin with the Conservative side.

Mr. Peter Shurman: I'll just say thank you very much. An interesting presentation, and talk about coming from the horse's mouth—you seem to know it.

Answer one little question: What's wrong with a Fruit Roll-Up?

Ms. Ruthie Burd: There's nothing wrong with a Fruit Roll-Up. You get plenty of time to eat it at home. Honestly, there's nothing wrong—it's sugar.

Mr. Peter Shurman: Is that all it is?

Ms. Ruthie Burd: Mostly.

Mr. Peter Shurman: Because I've read the ingredients in those things—again, when I'm in the deep recesses of my mind, bringing up my kids a million years ago—and I remember it being processed, but I don't remember being over—

Ms. Ruthie Burd: There's fruit juice in it. There really is, but there's lots of sugar. It's mostly carbs.

There's a concern about the kids who are obese. We have parents dropping off McDonald's and we see all sorts of stuff. All this stuff comes into the school. There you've got these kids—what percentage have you been told?—who already have a problem with weight. They're seeing all this stuff come in. What are they suppose to do on pizza day? Say, "Sorry"? Or with the candy or the treats, when they bring everything in? It's really hard. It's just the sugar count, and there's nothing wrong with it—

The Chair (Mr. Shafiq Qaadri): Thank you Mr. Shurman. Mr. Marchese, one minute.

Mr. Rosario Marchese: Ruthie, if you're right, why is it that the corporations are not just jumping to this opportunity? You're saying you can make money, but I don't see that many commercials saying, "Here's an apple; isn't this beautiful? Here's a carrot. We could make a spinach ice cream"—as an example, to tool it up. Why don't they do that if they could make money out of it?

Ms. Ruthie Burd: I don't get the spinach ice cream, to be honest, but I think that sometimes—the Field of Dreams thing was that if you build it, they will come. I think it's very much this thing. I think that you'll find that food providers that deal with school communities out in British Columbia are going to start getting a lot more creative with their products. I think the food industry absolutely wants to do the right thing, but they have shareholders and stuff to answer to.

Mr. Rosario Marchese: It's rough, isn't it?

Ms. Ruthie Burd: Primarily, I answer to my conscience.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese.

Mrs. Liz Sandals: I thought the end of your story was going to be that they were going to sell chocolate bars; that's always the fallback. However, just to say thank you, because you've given us some real practical experience that, when we move to good nutritional guidelines, in fact it's doable. I know there's some research in Minnesota and in Denmark looking at delivery. When we all move to the guidelines together, then it becomes doable. So thank you for giving that practical experience for us.

The Chair (Mr. Shafiq Qaadri): Yes, Mr. Levac.

Mr. Dave Levac: Mr. Chairman, just for information purposes, I'll just share with Mr. Marchese that the best commercial on TV right now, bar none, is when the kid opens the lunch bag and screams and hollers and clears the cafeteria when an apple is shown. I'd just thought I'd share that with you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Levac. Thank you, Mrs. Sandals, and thank you, Ms.

Burd, for your presence and your submission.

ONTARIO SOCIETY OF NUTRITION PROFESSIONALS IN PUBLIC HEALTH

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters, Mary Ellen Prange, a dietitian, and Sielen Raoufi, also a dietitian, of the Ontario Society of Nutritional Professionals in Public Health. Welcome. First of all, please be seated and introduce yourselves. You may begin now.

Ms. Mary Ellen Prange: Good afternoon. I'm Mary Ellen Prange. I'm a registered dietitian. I'm here today representing the Ontario Society of Nutrition Professionals in Public Health. I'm also a member of the School Nutrition Workgroup. To my right is Sielen Raoufi, who is also a registered dietitian, a member of our organization and the School Nutrition Workgroup.

As public health nutritionists, we have expertise and front-line experience working directly with schools and school boards in fulfillment of the public health mandate to promote and support nutrition education and healthy eating environments in schools, as well as to assist schools and school boards in creating nutrition policies.

OSNPPH received its charter in 1977. We are the official organization of registered dietitians working in the Ontario public health system. Our members are primarily employed by public health units. We are experts in population health promotion, with a focus on disease prevention. OSNPPH currently has 174 members in all of Ontario's 36 public health units.

Four years ago, OSNPPH released a landmark document, which our previous presenter mentioned, entitled Call to Action: Creating a Healthy School Nutrition Environment. I have to tell you that four years ago, if I thought we would be sitting here talking about this today—I just can't imagine. It is wonderful that we are

here. This document identifies the urgent need for local school boards, local public health units and the provincial government to work together to take action on improving the nutrition environment in Ontario schools, because it can be quite poor in some instances. The document has received quite a bit of attention across the province, as well as nationally and even internationally, and has been used as a reference for the development of nutrition policies in other provinces.

I'd just like to pass it over to Sielen to give a brief overview of the Call to Action.

Ms. Sielen Raoufi: As Mary Ellen mentioned, the document provides the framework to create, implement and support a healthy nutrition environment in Ontario schools. The recommendations centre around nine essential elements that are meant to structure in the format of the comprehensive school health model, as well as being consistent with the Ministry of Education's healthy schools model. The recommendations are intended for all key stakeholders who have a role in school health. Those would be the province, school boards, boards of health, as well as the schools and their communities.

The nine essential elements must all work together to create a healthy environment. As well as having a very strong health and physical education curriculum in Ontario schools, that have a very strong healthy eating component, the Call to Action is calling for consistency between what the students learn about in the classroom and what they see modelled in their schools, whether that be the food that's served to them in lunch programs or on special food days, the vending machines that they might buy snacks or beverages from, as well as their cafeterias, tuck shops and fundraising.

That's a very important one to point out. Kids could be learning about the importance of fruits and veggies in the classroom and in Canada's Food Guide, but they're seeing that for fundraising, the school is selling chocolate or chocolate-covered almonds that are being promoted as

The other elements are consistent with developing food and nutrition policies in the school: the importance of positive role modelling by school staff; safe and pleasant eating areas provided for students; appropriate scheduling of nutrition breaks; parent and community education and involvement in all school nutrition-related initiatives; nutrition education for students as well as for staff; and provision of student nutrition programs.

Ms. Mary Ellen Prange: We commend the province for taking action to introduce Bill 8, as this represents significant progress in following up on two important recommendations in the Call to Action. We believe that this legislation, if passed, can have a major impact on the nutritional and overall health of Ontario's children and youth.

However, there are two main areas where we feel the bill could be strengthened in order to maximize its impact. I do have a handout; I will pass it around.

The Healthy Food for Healthy Schools Act must be inclusive of all instances where food and beverages are offered or sold in both elementary and secondary schools.

1730

The nutrition environments vary greatly between elementary and secondary schools. For example, in contrast to secondary schools, most elementary schools do not have cafeterias and many do not have snack vending machines, making aspects of the proposed legislation non-applicable to the elementary setting. An elementary school's special event days, including special food days like pizza and hot dog days and classroom celebrations, are common and may occur on a frequent basis—even daily. Making these exempt from the legislation will present a serious loophole that will allow for regular availability of unhealthy choices to children in elementary schools.

Secondly, the Healthy Food for Healthy Schools Act must include evidence-based, comprehensive provincial nutrition standards applicable to all foods and beverages in Ontario schools. We would recommend, based on the differences between the secondary and elementary settings, that we have separate standards applicable to those two settings.

A lot of work has gone on in the province by public health with schools; because it's our mandate, we've been doing this for many years. But there's been a lot of interest, I would say, since the Call to Action has been released. School boards are calling us now. We used to have to kind of knock on their door; now they're coming to us. We have created an innovative tool kit called Nutrition Tools for Schools that's being used in 27 of the 36 health departments. It includes a food standards reference guide, so it already has nutrition standards contained in it that are applicable to the elementary setting. There is a program that I believe some of the other speakers have mentioned, Eat Smart, which is a provincial program. It's being implemented in about 20 of the health departments. There are 235 secondary schools participating in the Eat Smart program. The nutrition standard for cafeterias is just undergoing revision at the moment. In fact, by January 2009, there will be nutrition standards included in the Eat Smart program for vending machines and tuck shops that could be applicable to the secondary setting.

In general, we encourage a comprehensive set of nutrition standards that would go beyond trans fats and that would be inclusive of general nutrition guidelines for Canadians, and that a consultative process be employed, whereby all stakeholders can have input into the nutrition standards.

The Chair (Mr. Shafiq Qaadri): Have you finished your presentation?

Ms. Mary Ellen Prange: Yes. I will end there, thank you.

I just wanted to mention that we do have copies of the Call to Action here today, too, if anybody is interested in having their own copy.

The Chair (Mr. Shafiq Qaadri): Fine. Beginning with the NDP for about two minutes per side, Mr. Marchese.

Mr. Rosario Marchese: Mary Ellen and Sielen, obviously everybody supports this initiative, but what I hear from many of you is that there's more that we should do and it could be stronger and bolder. But here's my sense: When the government doesn't make any amendments and doesn't make it that much stronger, most of you will go back home and say, "Well, it's not so bad. We'll just continue working as we go and urge governments to do more the next time." Is that a fair assessment?

Ms. Mary Ellen Prange: Well, we have been working very hard for four years since our Call to Action has been released. It is a comprehensive approach to health and promoting healthy eating and good nutrition. We're going to carry on with that no matter what this bill does. We have 27 health units that are implementing Nutrition Tools for Schools. They're already working with schools and school boards to try to limit foods of minimum nutritional value in schools.

Mr. Rosario Marchese: I understand. I want to ask you another question. I introduced a bill yesterday that would prohibit commercial advertising of food and drink to young people under the age of 13. What do you think of the idea?

Ms. Mary Ellen Prange: I think that's a piece of the puzzle that will help in having a healthier population.

Ms. Sielen Raoufi: I think it's an important part of what a school nutrition policy should include as well.

Mr. Rosario Marchese: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Marchese. To the government side.

Ms. Helena Jaczek: Thank you so much for coming today. It's great to see so many public health professionals here.

A previous group, the Ontario Collaborative Group on Healthy Eating and Physical Activity, specifically zeroed in on the special event days. I guess I'd like your perspective. You've been working through the health units in schools. Are we not having a major impact? Aren't parent councils keen to keep their children healthy? Are they not following guidelines? What's your experience in terms of the special event days and, from your perspective, the types of foods that are being served following the kind of intensive educational efforts that you're making?

Ms. Mary Ellen Prange: There are some schools that are very proactive on this, and they are making changes and doing things to improve their special events. For example, I worked very closely with a school in Hamilton that was serving pizza, cookies and some sort of fruit drink and they completely changed that inside of a year. There was a lot of politics behind that. It's a slow process and I would say that at this point it's still a lot of the more keen schools that we're working with. There's a lot of work to be done across the province, and that's where legislation is really going to have an impact, I think.

Does that answer your question well enough?

Ms. Helena Jaczek: Would you advocate for the special event days exemption to be removed?

Ms. Mary Ellen Prange: Yes. We're very clear on that, that that's our stance, because they're not special. In some schools, they're happening every day, depending on how you define it.

The Chair (Mr. Shafiq Qaadri): We'll move now to Ms. Scott for two minutes.

Ms. Laurie Scott: You said that you had worked with one school and were able to change the pizza, cookies, fruit juice. Just as an example, what did you change it to?

Ms. Mary Ellen Prange: They now actually have real juice. The pizza is still there, but there's no cookie; they get an apple or some other type of fruit.

Ms. Laurie Scott: For the schools that are trying the program—the smart program, is it?

Ms. Mary Ellen Prange: Eat Smart.

Ms. Laurie Scott: The Eat Smart program. We've heard a lot of discussion about the psychology and how children think differently of what to eat than adults. How have you found that has gone over in the schools?

Ms. Mary Ellen Prange: The Eat Smart program? We are making the program more comprehensive. Right now, it's just limited to the cafeteria, so the cafeteria will offer healthier choices; they'll have a minimum number. But the vending machines are still what they are; the tuck shop is still what it is. Eventually, we want the Eat Smart program to be inclusive of that.

We've started by introducing some healthier choices into the cafeterias through Eat Smart, because they have to meet a minimum standard in order to—it's an award of excellence. So not only do they have a number of healthier food choices, but they've done some other things around the operation of the cafeteria.

Ms. Laurie Scott: And compliance with the children getting into the program: Are they content or do they want to run to the vending machine around the corner or bring more money to the tuck shop?

Ms. Sielen Raoufi: A significant component of the program is the promotion of it, because we realize that you can't just put healthy food in a cafeteria and expect that children will know to choose it or will gravitate toward it. So a big component is the awareness-raising, the education. A lot of times it's fun initiatives; it's pointof-purchase promotion that goes on. When public health works one on one with the schools in implementing the program, we're very clear to them that you have to promote this program and work on other education initiatives along with it.

Ms. Mary Ellen Prange: And I'd like to add—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott, and thanks to you both, Ms. Raoufi and Ms. Prange, for your presentation and written submission today.

FOOD SENSE HEALTHY VENDING SERVICES

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter, Ms. Maggie Cavalier, who is the owner of Food Sense Healthy Vending Services. Ms. Cavalier, please have a seat. I'd just let you know you have 15 minutes, and I'd invite you to begin now.

Ms. Maggie Cavalier: Good afternoon, Chairman, members, fellow presenters. I have a different perspective to this. My name is Maggie Cavalier. My husband and I started a company called Food Sense Healthy Vending. We provide healthier options to children, youth and adults, and it's been a mandate for our company. We do have documents to be handed out. They include a history of what I've been working on to get this initiative instituted in schools. I included them so that you would see the degree of effort and commitment that has gone into this from me and the company.

1740

This company was established in an endeavour to steer the trend in fast food in a healthy direction. My passion, drive and commitment come from many sources, but originally from my background with the Heart and Stroke.

The reason this subject of children and poor nutrition and trans fats is so close to my heart is because I have a grandson who has Asperger's. My grandson weighs 250 pounds. My grandson is 13 years old. My grandson is now in a high school that has vending.

I have worked on this for three years. What you've done with the elementary schools, from what I see, is phenomenal, except you could do without the fundraising and the chocolate bars. That was a little scary. I found out a lot of the elementary schools do not have milk in their schools.

My concern today is trans fats and what it does to people like me who are grandparents of children in the school system. My company lobbies against the poor nutritional options and habits consistently bombarding our children's living environment. It's a frightening statement made by the Ontario College of Physicians and Surgeons that this is the first generation that may not outlive their parents due to poor lifestyle illnesses. It's scary when the Heart and Stroke can say 28% of our youth and adolescents are obese.

I've been lobbying this call to action for three years. This is what I live for and this is the reason Food Sense was created. Education should begin at home. Finally, the movement toward healthy lifestyles is clearly mounting and parents are taking notice of what children put in their mouths. They're being made aware of the increase in adult-onset diseases now showing up in our children at alarming, record rates. It makes sense to follow through on this education in their second learning environment, which is our schools.

I applaud the reduction or elimination of trans fats, but it's not enough. I can go in my warehouse and see that chocolate bars contain very little trans fats. I can check a bag of chips, almost any one of them, and they contain no trans fats. Most cookies now are trans fat-free.

There are companies out there—and the Lunch Lady alluded to the success of her company. I believe she deals with the elementary group of students, and that has come out very well. But for high schools, these are their 8 AVRIL 20087

options in vending machines and this is not something that's set in stone. There are a lot of healthier options out there and you have listed them all in policy 135 for the elementary school program—products that they can have. All of that is good, healthy—it tastes great—food. What we're seeing now is that the chocolate bars, chips and cookies have little or no nutritional value, and these ingredients cause obesity, heart disease, diabetes, all of the stuff we've heard today.

How can we, as caring adults and parents, change this? I am here in both capacities, addressing you, who are people of influence, in the hope that together we can become a driving force in taking the educated approach to reversing the thought process within the high schools that "junk food sells and we need the revenue." My research has revealed that this is the mantra constantly stated in our schools and, in many cases, it's the head of our physical education department who is saying it. The exact same commission structure can be applied to healthier-option products. I know it. I'm doing it in other areas.

We need to ensure that the availability of healthy foods is found in our cafeterias and vending machines in a learning environment. Students do need ongoing education in the importance of proper nutrition. Our children and youth deserve the very best possible fuel to energize a learning mind and they rely on us, as their peers, to give it to them. Further research indicates that teaching staff are on board with these healthy initiatives and have stated that a lot of learning disabilities—children who eat high-sugar, high-fat product, are bouncing off the walls in the afternoon and virtually uncontrollable, let alone teachable, because of poor food intake during the earlier part of the day.

Healthy body focus is three meals a day and two healthy snacks to maintain a proper metabolism. Cafeterias often close at 2 o'clock, and healthy vending choices should be available to bridge the gap, to offset the crashand-burn effect. Cafeteria contracts often hold the total food concession proviso. Often, they do not wish to provide vending, but the door is closed to other companies wishing to provide the service because the contract is tied up. Initiatives are already in effect in BC and Nova Scotia.

Directives that we've taken as Food Sense to date: Food Sense has been a recipient of the Impact Award for innovation in sales and initiative; we are participants in special initiatives with the Durham region health department; we are participants in a pilot project for the Eat Smart program; and we are participants with Variety Village and the Healthy Buddies program.

Vending does have a key role to play here. It can be just as fun and just as tasty as what we're offering the kids now. I continue to work with one of my customers, Buffet Taylor, the health and wellness specialists; Durham Indoor Soccer Centre; and a community centre in Scugog—they've gone healthy in their vending. We deal with corporate fitness programs, the town of Whitby and

fitness facilities. I continue to work to try and bring in healthier choices eating to the school.

Food Sense has a structured petition on their website—it's in your package—for parents wishing to advocate for healthy vending in schools, community centres and arenas. We are an advocate for healthy vending in Ontario. The drive towards this cause will continue until the results are achieved.

Yes, I'm the owner of Food Sense, and yes, I'd like to supply the schools. But that's not why I'm here. I'm here today as a proactive and caring parent to advocate towards a movement of good nutrition in schools. I'm here to gain attention for the injustice being done to our children, who cannot speak for themselves.

What you're doing is a positive step not only for our students but also for the future of Ontario and for the Ontario health care system. I hope that you will drive the legislation to more fully encompass the mandate towards truly healthy eating, and an act has to ensure this. This will prevent those in positions of authority from stepping in with the weak statements, "Junk food sells and we need the revenue," thereby preventing this much-needed change from taking place within our schools.

Thank you for the opportunity of allowing me to express my concerns. If in my capacity I can assist you, please do not hesitate to contact me.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Cavalier. We have about a minute or so per side, beginning with the government.

Mrs. Liz Sandals: Thank you very much for your presentation. I take it that you're quite strongly in support of the fact that Bill 8 takes the elementary junk food ban in vending machines and extends that to secondary vending machines and then also will eventually provide broader nutritional guidelines for food.

Just to let you know, we have specifically had the conversation about tuck shops. It would be our observation that what you are saying is often true: that tuck shops are a source of junk food. We know we have to make sure that the nutritional guidelines apply to tuck shops and that you can't end-run everything else with tuck shops. So we do understand that about the dynamic of secondary schools, just to give you some assurance there that we're on the same wavelength.

The Chair (Mr. Shafiq Qaadri): Ms. Scott?

Ms. Laurie Scott: Thank you very much for appearing before us. Maybe elaborate a little bit: The vending machines that you do supply, and the programs, for example; what do they offer?

Ms. Maggie Cavalier: It just depends on where you are. If it was a school it would be yogurts, puddings. They have cheese. You can do the baked product instead of fried. You can do cereal bars. All the stuff you have listed in policy 135 is applicable in a high school vending machine. They've done it in PEI—and I'm afraid I forgot to put it in with your brochure. Students did this in PEI. They did it over the summer. It was a high school—not a problem—amazing, and they do exactly the same thing I do.

1750

The Chair (Mr. Shafiq Qaadri): Mr. Marchese.

Mr. Rosario Marchese: Maggie, Ms. Sandals just said that we have banned or we're banning junk food. That's what I think I heard her say.

Ms. Maggie Cavalier: Yes, I heard that too, but I

know you aren't.

Mr. Rosario Marchese: That's what I wanted you to comment on, because that's what's on the record. When I read the bill, it says that it "adds a requirement for boards to ensure that food and beverages sold in vending machines comply with the nutritional standards set out in regulations." Then I was going to ask you: Does that sound like a ban on junk food?

Ms. Maggie Cavalier: No, it's not a ban. Actually, if you're reducing trans fats, you're allowing them to have everything they have now, except maybe french fries fried in a certain oil in high schools. Potato chips have no

trans fats. Most cookies have no trans fats.

The Chair (Mr. Shafiq Qaadri): Have you completed, Mr. Marchese?

Mr. Rosario Marchese: Yes, I did.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Cavalier.

DIETITIANS OF CANADA

The Chair (Mr. Shafiq Qaadri): I'd now invite our final presenter for the day, Ms. Leslie Whittington-Carter of the Dietitians of Canada, and colleague. Please do introduce yourselves for the public record, and I'd invite you to begin now.

Ms. Linda Dietrich: Thank you very much for the opportunity to be here. Unfortunately, Leslie is unable to attend. I'm Linda Dietrich and I'm the regional executive director for Dietitians of Canada for the Ontario region. With me is Lynn Roblin. Lynn will introduce herself.

Ms. Lynn Roblin: I'm Lynn Roblin. I'm here as a member of Dietitians of Canada. I work with Linda Dietrich and Carol Dombrow, whom you've heard speak before on the school nutrition guidelines for vending machines that we did in 2004. That's just a bit of background.

Ms. Linda Dietrich: Nutrition is a key factor in maintaining health. Dietitians of Canada supports initiatives that increase access to healthy foods in schools. Food at school is a key contributor to children's nutritional intake. DC supports the provision of healthier food choices for all foods sold and served in school.

DC encourages the government to develop comprehensive food policies for schools, along with implementation guidelines that consider the roles of and impact on all stakeholders, including parents, children, teachers, school administrators, public health personnel, as well as the food industry.

Dietitians of Canada represents almost 6,000 dietitians across Canada, and there are over 2,800 registered dietitians in Ontario, whose knowledge and expertise support people in health and illness to make healthy food

choices. DC is committed to promoting the health and well-being of consumers through food and nutrition.

Lynn will now address some of the specifics around schools.

Ms. Lynn Roblin: Regarding school nutrition and its impact on children and adolescents, you've heard a lot of background already today, so I'm just going to go briefly over some of the points that we have included in our report, of which I believe you did receive a copy earlier, and if not, we'll make sure you get a copy.

First off, we all recognize that children spend a significant part of their day at school, and the food choices they get there do have an impact on their health. When only nutritionally adequate or poor food choices are available every day, it is difficult for students to make a healthy choice.

We know that inadequate nutrition can have a detrimental effect on children's learning as well as their physical growth and development. Well-nourished children are more prepared to learn and have the energy they need to carry out their daily and physical activities.

Poor food choices and eating habits are contributing to the rising rate of childhood and adolescent obesity and type 2 diabetes. These poor eating habits can go on into adulthood and increase the risk of chronic diseases. This is increasing our health care costs, as we have heard previously.

We are concerned here in Ontario about the rising childhood obesity rates. Our average in Ontario is actually 1% above the national average in terms of children ages two- to 17 all being overweight or obese.

We do feel that schools can play a powerful role in influencing the food choices of children and youth. The development of food policies and guidelines for the types of food served in schools is a very important strategy to promote healthy choices among youth. We know that reforming the school nutrition policies and guidelines alone will not solve the mounting obesity problem. We require a multi-faceted, collaborative approach to promote healthy eating environments at school, and you've heard some of that from Mary Ellen's presentation from the Call to Action.

This means that we require supportive curriculum, role models for healthy eating and the availability of healthy foods for all activities, including foods served for meals, snacks, vending machines, tuck shops, cafes, for fundraising and special event days. Schools, we feel, need to practise what they teach the students in the curriculum and reinforce what's being taught in the classroom about nutrition.

In my role as a nutrition consultant and parent of four kids—two are still in the high school system and two have graduated—I have worked with a number of schools on parent councils and see that we can make improvements to the food choices for our children at school. We've seen switching from doughnuts to fruit kebabs. We've seen chicken and tuna salad wraps, instead of hot dogs for hot dog days, served in cafés. Unfortunately, the tuck shops seem to be the last area of our control. From

experience, I was waiting for my daughter in the high school the other day and peeked in their tuck shop. The only healthy choice there was water. Everything else was chips, candy bars and sodas. So that is an area that we still require a lot of attention in.

In terms of Dietitians of Canada's opinion regarding Bill 8, we do commend the Ontario government for initiating this bill. Implementation of consistent policies across the province will have a powerful impact on improving the choices for children at school, regarding their food choices. Initiating a policy that limits the trans fat in foods or beverages offered for sale to pupils in a cafeteria or school is just one step, along with the 2004 school vending machine policy, to providing a healthy, supportive eating environment.

DC, however, is concerned that focusing solely on trans fat and excluding special events days will not solve the problem of access to nutritionally poor food choices at school. We believe that a more comprehensive school policy is required that promotes the tenets of eating well with Canada's Food Guide, emphasizing increased fruit and vegetable consumption and reducing sodium, sugar and total fat.

We have a number of recommendations coming from Dietitians of Canada:

—that a more comprehensive provincial food policy is necessary to ensure that healthier food and beverages are sold and served in Ontario schools;

—that the school food policies apply to all foods and beverages sold and served in schools, not just those in cafeterias and vending machines, and foods used in snack and meal programs, special event days, tuck shops, cafés and for fundraising;

—that the comprehensive school food policy ensures that beverages and food sold and served in school follow the recommendations set out in Health Canada's food guide, Eating Well with Canada's Food Guide. As a follow-up, the food guide does specifically recommend limiting foods that are high in calories, fat, sugar or salt. There are many examples of those that we've already heard about tonight;

—finally, that stakeholder consultation be used to develop more comprehensive food policies, and that Dietitians of Canada has members who have the knowledge and expertise to make a significant contribution to this process.

Thank you very much.

The Chair (Mr. Shafiq Qaadri): We have the Conservative side, about 90 seconds or so per side.

Ms. Laurie Scott: Thank you very much for appearing here today. We've had a lot of presentations, so with only such a short time, I'll just say thank you. I won't have direct questions, but we can follow up later.

The Chair (Mr. Shafiq Qaadri): Mr. Marchese.

Mr. Rosario Marchese: If the government does not include any of your recommendations, how displeased would you be?

Ms. Lynn Roblin: Well, very. No, I think that—

Mr. Rosario Marchese: Now, be frank. Don't hold back.

Ms. Lynn Roblin: We're moving along on a continuum of trying to promote healthier food choices and we'd be very disappointed if you didn't move ahead on promoting a more comprehensive school food policy.

Mr. Rosario Marchese: Merci.

The Chair (Mr. Shafiq Qaadri): Thank you. Bienvenue, mon ami. We have now the government side. Ms. Sandals.

Mrs. Liz Sandals: I must phrase this question this way then, following my colleague over here: How happy would you be if we had a regulation "governing nutritional standards for food and beverages and for any ingredient contained in food and beverages provided on board property, on school premises or in connection with a school-related activity"?

If we went there, would that make you happy?

Ms. Lynn Roblin: Yes.

Ms. Linda Dietrich: Very happy.

Mrs. Liz Sandals: Okay, good. I'm reading from Bill 8, obviously.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals, and thanks to you both, Ms. Roblin and Ms. Dietrich, for your presentation on behalf of the Dietitians of Canada.

For the information of committee members, legislative counsel is Catherine Oh, and is available, of course, for assistance for drafting of amendments. We won't be announcing this phone number publicly because then we'd have members of the public calling for the drafting of their amendments.

With that, if there's no further business, this committee stands adjourned until Monday, April 14, for clause-by-clause consideration of Bill 8.

The committee adjourned at 1801 hours.

CONTENTS

Tuesday 8 April 2008

Healthy Food for Healthy Schools Act, 2008, Bill 8, Ms. Wynne / Loi de 2008 portant sur une alimentation saine pour des écoles saines, projet de loi 8, M ^{ne} Wynne	SP-3
Centre for Science in the Public Interest	SP-3
Mr. Bill Jeffery	an 1
Heart and Stroke Foundation of Ontario	SP-5
Mr. Rocco Rossi	
Dairy Farmers of Ontario	SP-8
Ontario Collaborative Group on Healthy Eating and Physical Activity	SP-9
Food and Consumer Products of Canada	SP-12
Compass Group Canada	SP-14
Lunch Lady Group Inc. Ms. Ruthie Burd	SP-15
Ontario Society of Nutritional Professionals in Public Health	SP-18
Food Sense Healthy Vending Services	SP-20
Dietitians of Canada	SP-22

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke-Lakeshore L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London-Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)

Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Rosario Marchese (Trinity-Spadina ND) Ms. Liz Sandals (Guelph L)

> Clerk / Greffier Mr. Katch Koch

Staff / Personnel

Ms. Carrie Hull, research officer, Research and Information Services

Publican Char



ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Monday 14 April 2008

Standing committee on social policy

Healthy Food for Healthy Schools Act, 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Lundi 14 avril 2008

Comité permanent de la politique sociale

Loi de 2008 portant sur une alimentation saine pour des écoles saines

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 14 April 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 14 avril 2008

The committee met at 1545 in committee room 1.

HEALTHY FOOD FOR HEALTHY SCHOOLS ACT, 2008

LOI DE 2008 PORTANT SUR UNE ALIMENTATION SAINE POUR DES ÉCOLES SAINES

Consideration of Bill 8, An Act to amend the Education Act / Projet de loi 8, Loi modifiant la Loi sur l'éducation.

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues and members of the committee, I'd like to welcome you to the standing committee on social policy. As you know, we're here for clause-by-clause consideration of Bill 8, An Act to Amend the Education Act. As you'll note, procedurally a copy of the amendments was received by the clerk at the deadline of 5 p.m. on Thursday. Those amendments have been distributed and numbered according to the order that we'll consider them in

On behalf of all members of the committee, I'd like to acknowledge not only our usual standing committee social policy team but also legislative counsel, Ms. Catherine Oh.

I'd now like to open the floor by asking if there are any general comments, questions or amendments to any part or section of the bill. Yes, Ms. Scott?

Ms. Laurie Scott: I'll just note that we feel that most of this bill will be done in regulations. I know there's been a committee that has been set up. We felt this was a shell legislation, therefore we didn't bring any amendments forward. We'll deal with details as the regulations come forward. I just wanted to make that comment.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott. Any comments? Any replies?

Mrs. Liz Sandals: Just to acknowledge that Ms. Scott is right: A lot of the work that is going on in this bill will in fact be regulatory. There are a number of government motions, but they're in the nature of technical motions to improve the structure around which we can hang the regulations.

The Chair (Mr. Shafiq Qaadri): That's great. Seeing no further comments, we'll now move to consideration of the motions. As has been distributed to you, we'll now consider government motion 1. I'd invite any member of

the government committee to please read that into the record. Ms. Sandals?

Mrs. Liz Sandals: Yes. I move that paragraph 29.3 of subsection 8(1) of the act, as set out in section 1 of the bill, be amended by striking out "on board property".

The Chair (Mr. Shafiq Qaadri): Are there any comments? Mr. Marchese.

Mr. Rosario Marchese: Mr. Chair, could I have the parliamentary assistant explain the rationale for that amendment?

Mrs. Liz Sandals: Yes. Is it okay with you, after I place each of these, to go right into the explanation? I will do that if that's okay.

Mr. Rosario Marchese: Yes, please.

Mrs. Liz Sandals: This is the section that enumerates the powers of the minister. The nutritional guidelines were intended to apply in schools. The concern that has been raised is that you often run into the situation where there is board property which has been leased out to other tenants. It would not be the intent that, where board property is leased out to someone else, the nutritional requirements would apply. So you might have as a tenant some other social service agency or perhaps a private organization of some nature. It is not our intent that the nutritional guidelines apply to them; our intent is that the nutritional guidelines apply in schools. In fact, the clause does still talk about "on school premises or in connection with a school-related activity."

Mr. Rosario Marchese: Did anyone raise that last week when we debated this or are there other people that you've been talking to?

Mrs. Liz Sandals: It has been raised by some other organizations, and there's one we will get into. Quite frankly, it's been raised by legislative counsel that we need to be careful that we're saying precisely what we mean. So these amendments are largely, as I say, technical

Mr. Rosario Marchese: Just for the record, Mr. Chair, none of the deputants who came last week raised this issue. I just wanted to say that on the record.

Mrs. Liz Sandals: No. Most of these amendments are largely technical.

Mr. Rosario Marchese: It's not just technical. This is not a technical issue, I would say to the parliamentary assistant. I suspect a lot of the people who came last Thursday supported this, supported the language of "on board property," because what it meant to dietitians and

others is that by keeping it, you're sending a message, not just to events that happen during school hours but any event that's held by anybody on school property. My suspicion is that most of the people who came would have said, "Keep that language," and they will disagree with you as you remove it.

1550

So, it's not a technical thing; it is a political thing. I'm probably on the side of the dietitians on this.

Recorded vote on this one.

Ayes

Dhillon, Jaczek, Ramal, Rinaldi, Sandals.

Nays

Marchese.

The Chair (Mr. Shafiq Qaadri): Government motion 1 carries

Shall section 1, as amended, carry? Those in favour? Those opposed? Carried.

We'll now proceed to consideration of government motion 2, and I would invite Mrs. Sandals to read it into the record.

Mrs. Liz Sandals: I move that section 317 of the act, as set out in section 2 of the bill, be amended by striking out the definition of "special event day."

We are now into the section of the bill which is the new section that has to do with nutritional standards. I would like to assure you that the lawyers, in looking at this, have decided that the definition and the special event criteria more appropriately belong in section 318, so I will turn around and put them back in with the next amendment. We are not getting rid of the reference to special event days.

The Chair (Mr. Shafiq Qaadri): Any further comments or questions? Seeing none, we'll proceed to the consideration and the vote. Those in favour of government motion 2? Those opposed? Motion 2 is carried.

I now invite government motion 3.

Mrs. Liz Sandals: I move that section 318 of the act, as set out in section 2 of the bill, be struck out and the following substituted:

"Trans fat prohibition

"318(1) A board shall ensure that a food or beverage offered for sale in a cafeteria of a school of the board does not contain more than the prescribed amount or percentage of trans fat.

"Ingredients

"(2) A board shall ensure that an ingredient used in the preparation, in a cafeteria of a school of the board, of a food or beverage offered for sale in the cafeteria does not contain more than the prescribed amount or percentage of trans fat.

"Exemptions

"(3) Subsections (1) and (2) do not apply to the board,

- "(a) in respect of a food or beverage or an ingredient used in the preparation of a food or beverage specified in the regulations;
 - "(b) on a special event day; or
 - "(c) in the circumstances specified in the regulations.

"Special event day

"(4) For the purposes of clause (3)(b), a special event day is a day that meets the criteria set out in the regulations."

I'll just look at each one of those.

In (1) and (2), what we are doing is removing the reference to pupils. It originally talked about the sales to pupils in a cafeteria. It was not our intent that you could go to the student cafeteria and get a trans-free menu and then go over to the staff cafeteria and get one to which the rules did not apply. So, we are making clear that it doesn't matter who you're selling the food that is sold in the school to, whether it be the staff or students; that the rules apply in the school cafeteria to all. So we're simply deleting the reference about selling explicitly to pupils in (1) and (2).

The lawyers have had a look at the original wording of (3) and it didn't quite match up, from a legal perspective, with the way the first two clauses were worded. The first two clauses applied to the school board and the third clause applied to food, which isn't right. So, this is mainly a rewrite to make the whole thing apply to the board.

Most of this lines up, but note that in clause (b) we have put in the special event day that we deleted in the previous section.

Clause (3)(c) is an issue that has been raised by some of the lawyers from other ministries: that, for example, if you have a daycare in a school, there are explicit nutritional regulations under MCYS legislation around daycare. It is not our intent to go trumping other regulations. The circumstances specified in the regulation would allow us to take care of that.

Another possibility is that, especially in small communities, you often find that the school auditorium is the only hall in town. So we don't mean that if you hire the school hall for your 40th-anniversary party, the nutritional rules necessarily set up if it has been leased out by a third party group for a community event.

Those are the circumstances in which we would see a regulation under clause (c), the sorts of circumstances that that would handle.

Under "special event day," we're giving ourselves to set out criteria in the regulations for a special event day. That gives us a broader regulatory power than simply having a definition, because there have been some concerns raised during the hearings that if we're not pretty explicit about special event days, every day could be a special event day. This will allow us to set up a regulation in which we spell out the criteria about how you recognize a special event day, so that every day isn't special. Although, of course, in our schools, every day is special, but not necessarily a special event day.

The Chair (Mr. Shafiq Qaadri): Are there any other comments or questions with regard to government motion 3? Seeing none, we'll now proceed to the vote. All those in favour of government motion 3? Those opposed? Carried.

Shall section 2, as amended, carry? Those in favour?

Those opposed? Carried.

We'll now move to consideration of section 3: government motion 4.

Mrs. Liz Sandals: This moves on to the vending machine clause.

I move that section 319 of the act, as set out in section 3 of the bill, be struck out and the following substituted:

"Vending machines

"319(1) A board shall ensure that a food or beverage offered for sale in a vending machine on school premises meets any nutritional standards set out in the regulations.

"Exemption

"(2) Subsection (1) does not apply to the board in the circumstances specified in the regulations."

In the first clause, once again we are getting rid of two "pupils," so this would be anybody in the school. For those who are looking very closely, they will see that we've simplified the wordings around meeting any nutritional standards, because that's simply clear on its own: that you have to meet the nutritional standards set out in the regulations.

The exemption here, the "circumstances specified in the regulations," is the same argument I went through

with the last exemption.

Mr. Rosario Marchese: I'm not clear, parliamentary assistant, about why you're eliminating the words "including any applicable standards relating to trans fat content." If it is redundant—

Mrs. Liz Sandals: It's redundant.

Mr. Rosario Marchese: —why not leave it? It speaks to the issue. Most of the time, governments will have redundancies in some places, so I'm not sure why you felt the need to get rid of it.

Mrs. Liz Sandals: The legal advice was that it was re-

dundant.

Mr. Rosario Marchese: I see. So the legal advice didn't see that earlier on but saw it later on?

Mrs. Liz Sandals: That's what often happens with technical amendments.

Mr. Rosario Marchese: Is that right?

Mrs. Liz Sandals: The lawyers have a sober second pass.

The Chair (Mr. Shafiq Qaadri): Any further questions or comments?

Mr. Rosario Marchese: My comment there is that it just removes the emphasis. I'm not sure whether it makes it clearer, so I was in favour of leaving the language as it was—for the record.

1600

Mrs. Liz Sandals: If I may respond, one of the confusions around this bill seems to be that it's only about trans fats and, in fact, trans fats are only one piece of it. The vending machine guidelines will be much more

about pop and chocolate bars and those sorts of things, so vending machine trans fats aren't the issue that they are in school cafeterias, but if there are relevant trans fat nutritional guidelines, then they will be there as well.

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments? Seeing none, we'll now proceed to the consideration of government motion 4. Those in favour of government motion 4? Those opposed, if any? It's carried.

Shall section 3, as amended, carry? Those in favour? Those opposed? Section 3, as amended, carries.

We'll now proceed to the consideration of section 4, four motions preceding 2, motion 5.

Mrs. Liz Sandals: I move that clause 320(a) of the act, as set out in section 4 of the bill, be struck out and the following substituted:

"(a) defining 'dairy product' and 'ruminant meat' for

the purposes of this part and the regulations;"

There are a series of amendments here to clause 320, Chair. Clause 320 is the enumeration of regulatory powers under the bill. Each of these, then, has to do with regulatory power. Because we've picked up the special event day criteria in regulation elsewhere, that has been dealt with elsewhere, but what we're doing instead then is putting in the ability to put "dairy product" and "ruminant meat" into the regulations so that can be defined more clearly, if necessary.

The Chair (Mr. Shafiq Qaadri): Any further questions or comments? We'll proceed then to the consideration. Those in favour of government motion 5? Those opposed? Carried

Motion 6.

Mrs. Liz Sandals: I move that clause 320(c) of the act, as set out in section 4 of the bill, be struck out and the following substituted:

"(c) specifying a food, beverage or ingredient for the purposes of clause 318(3)(a), including a food, beverage or ingredient in which the trans fat originates exclusively from ruminant meat or dairy products;

"(c.1) specifying circumstances for the purposes of clause 318(3)(c) or subsection 319(2);

"(c.2) setting out criteria for the purposes of subsection 318(4);"

This is really sorting out the language here so that it matches to the things that we already did. The first one makes a reference back to the trans fat exemption clause and allows it to be clarified. Clause 318(3)(c) and the other clauses that are referenced here have to do with special event days and other things that we've already amended, so it's setting up the clauses to refer back to them.

The Chair (Mr. Shafiq Qaadri): Are there any questions or comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 6? Those opposed? Carried.

Motion 7.

Mrs. Liz Sandals: I move that clause 320(d) of the act, as set out in section 4 of the bill, be amended by striking out "on board property."

This is the same issue as before, that we're wanting to make sure that this is schools used as schools or in connection with school-related activity; again, making sure that we're not tying up buildings that are simply leased out to totally third party entities.

The Chair (Mr. Shafiq Qaadri): Any further comments, questions or queries? Seeing none, those in favour

of motion 7? Those opposed? Carried.

Motion 8.

Mrs. Liz Sandals: I move that clauses 320(e), (f) and (g) of the act, as set out in section 4 of the bill, be struck out and the following substituted:

"(e) requiring a board to ensure that the standards referred to in clause (d) are met, and prescribing rules for when the requirement first applies to the board;

"(f) prescribing rules for when a requirement set out in subsection 318(1), (2) or 319(1) first applies to a board."

In the case of (e), that simplifies the rules around the overall nutrition standards, and (f) would be related to when the trans fat and vending machine clauses take effect.

The Chair (Mr. Shafiq Qaadri): Thank you.

Mr. Rosario Marchese: Just for the record, Mr. Chair, originally in the bill, clauses 320(f) and (g), which have now been struck out, referred specifically to outstanding contractual obligations. This particular motion removes those references and replaces them with something that's a little more ambiguous to me at least around trans fats, how they apply.

Mrs. Liz Sandals: Well, in each of these cases, because the regulatory power—remember, we're still dealing with the ability to make regulations, so that prescribing rules for when the requirement first applies would allow you to have something slightly more complicated than one date. So it doesn't change the meaning

particularly-

Mr. Rosario Marchese: But how does the current language prevent you from doing whatever you want to do in regulations?

Mrs. Liz Sandals: I'm not sure that it does. I think that it was just a case of making it a little bit easier to dig through, and because we've moved some other things around, it now matches up properly again.

Mr. Rosario Marchese: I'm not sure about that. On a recorded vote, Mr. Chair.

Ayes

Dhillon, Jaczek, Ramal, Rinaldi, Sandals, Scott, Shurman.

Nays

Marchese.

The Chair (Mr. Shafiq Qaadri): Motion carried.

Shall section 4, as amended, carry? Those in favour? Those opposed? Section 4, as amended, is carried.

The Chair has, to date, not received any amendments for sections 5 or 6. If there be any, let them come forward. If not, we'll proceed to consider both sections simultaneously, and if there are no further questions or comments, shall sections 5 and 6 together carry? Opposed? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 8, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

If there are no further questions or comments, seeing none, the committee is adjourned.

The committee adjourned at 1608.



CONTENTS

Monday 14 April 2008

An Act to amend the Education Act, Bill 8, Ms. Wynne /	
Loi modifiant la Loi sur l'éducation, projet de loi 8, M ^{ne} Wynne	SP-25

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke-Lakeshore L)
Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)
Ms. Cheri DiNovo (Parkdale-High Park ND)
Ms. Helena Jaczek (Oak Ridges-Markham L)
Mr. Dave Levac (Brant L)
Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)
Mr. Khalil Ramal (London-Fanshawe L)
Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)
Mr. Peter Shurman (Thornhill PC)

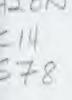
Substitutions / Membres remplacants

Mr. Rosario Marchese (Trinity-Spadina ND) Mr. Lou Rinaldi (Northumberland-Quinte West L) Mrs. Liz Sandals (Guelph L)

> Clerk / Greffier Mr. Katch Koch

Staff / Personnel
Ms. Catherine Oh, legislative counsel

SP-4



ALDI ALTERAM FARTIM

SP-4

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Monday 21 April 2008

Standing Committee on Social Policy

Access to Adoption Records Act (Vital Statistics Statute Law Amendment), 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Lundi 21 avril 2008

Comité permanent de la politique sociale

Loi de 2008 sur l'accès aux dossiers d'adoption (modification de lois en ce qui concerne les statistiques de l'état civil)

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 21 April 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 21 avril 2008

The committee met at 1532 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, I'd like to welcome you to the Standing Committee on Social Policy deliberations on Bill 12, An Act to amend the Vital Statistics Act in relation to adoption information and to make consequential amendments to the Child and Family Services Act.

As you'll know, your subcommittee met on Tuesday, April 15, and I would invite Ms. Broten to read that, to enter it into the record.

Ms. Laurel C. Broten: This is the report of the subcommittee of the Standing Committee on Social Policy.

Your subcommittee on committee business met on Tuesday, April 15, 2008, to consider the method of proceeding on Bill 12, An Act to amend the Vital Statistics Act in relation to adoption information and to make consequential amendments to the Child and Family Services Act, and recommends the following:

- (1) That the committee meet for the purpose of holding public hearings in Toronto on Monday, April 21, 2008.
- (2) That the clerk of the committee post the information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.
- (3) That interested people who wish to be considered to make an oral presentation on the bill should contact the clerk of the committee by Friday, April 18, 2008, at noon.
- (4) That the presenters be offered 15 minutes in which to make a statement and answer questions.
- (5) That the clerk of the committee, in consultation with the Chair, be authorized to schedule witnesses on a first-come, first-served basis.
- (6) That the deadline for written submissions be Monday, April 21, 2008, at 5 p.m.
- (7) That amendments to the bill be filed with the clerk of the committee by Tuesday, April 22, 2008, at noon.
- (8) That the committee meet on Tuesday, April 22, 2008, for clause-by-clause consideration of the bill.
- (9) That the research officer prepare a one-page background on the bill.
- (10) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any

preliminary arrangements to facilitate the committee's proceedings.

The Chair (Mr. Shafiq Qaadri): Are there any questions, comments or issues to be dealt with? If not, is the subcommittee report adopted as read? All in favour? Adopted.

ACCESS TO ADOPTION RECORDS ACT
(VITAL STATISTICS STATUTE
LAW AMENDMENT), 2008

LOI DE 2008 SUR L'ACCÈS
AUX DOSSIERS D'ADOPTION
(MODIFICATION DE LOIS
EN CE QUI CONCERNE
LES STATISTIQUES DE L'ÉTAT CIVIL)

GAIL SELLERS

The Chair (Mr. Shafiq Qaadri): We'll now move to the presentations from members of the public. I would invite, by teleconference, Mrs. Gail Sellers and Fred Dixon. To you, Mrs. Sellers and Mr. Dixon, and to those who are listening now, I would just remind everyone collectively that we have 15 minutes in which to make presentations, and any time remaining will be strictly divided in three to the parties for any kinds of questions or comments. Mrs. Sellers, Mr. Dixon, are you there?

Mrs. Gail Sellers: It's just Mrs. Sellers. Unfortunately, there was a mix-up and my brother—

The Chair (Mr. Shafiq Qaadri): Fair enough. I would invite you, Mrs. Sellers, to begin now.

Mrs. Gail Sellers Okay. The reason I have sent a written presentation to you and I'm talking to you today is to let you know the wonderful impact that finding a full sibling, a full brother—it has changed my life and it has changed my brother's life.

I did not know that I had a sibling. My parents have died and my adopted brother's parents passed away many years ago. It was through the diligent efforts of my brother's daughter—she played a pivotal role in us coming together.

What has transpired in the last 15 months can surely be said to be the better part of a miracle. As I say, my brother—I was approached by my cousin and subsequently talked to my brother. It was a non-identifying

document that my brother had received from the children's aid. Even though it was non-identifying, it spoke specifically of places and times and events that were true only to my family. My brother and I have come together in a very special way over the last 15 months. We've come to know and love each other as true brother and sister.

My life was profoundly changed a number of years ago when my 13-year-old child, my only son, was killed. Over these years, I've suffered with severe depression. Although I've had a very supportive husband, some loving stepsons and some family and close friends, I've often felt very much alone. Essentially, having my brother and his wonderful family in my life has given me back my life, and it's a relationship that we treasure. Both our families and friends truly support the relationship we have. We have shared many family outings together and holiday celebrations, and we look forward to many days ahead.

One of the most remarkable things we discovered in our times together were photographs. As it has always been said, a picture is worth a thousand words. I think we've found a million. I found pictures in my possession that were my mother's that indicate my mother with my brother, and we've confirmed the pictures to know, in fact, that it was him. I found them in other family members' possession. But the most remarkable picture we found of all was the picture that my brother had from his adoptive mother. It was one of my mother and my brother, taken when he was about three months old. It was wonderful to be able to confirm to my brother that that was, in fact, his mother.

When I see my brother, I'm reminded of both our parents. In his expressions and his kindness, he's a blend of both mum and dad. My brother was raised by loving adoptive parents, and the remarkable person I believe he's become today can be attributed not only to genetics but to the loving family that raised him.

Our relationship goes far beyond merely exchanging family history. We are as devoted as any brother and sister could possibly be and are committed to each other. We've made the commitment that we want to be with each other's families for the rest of our lives. It's had that much of an impact on both of us.

We were disappointed last September when we learned that the adoption law we were eagerly awaiting had been quashed and my brother could no longer apply for the long form of his birth certificate or any other pertinent adoption records. I was prompted last year, in the light of all this, to write for my long form of my birth certificate, and it clearly stated in my father's handwriting that mum had had one child prior to my birth.

What my brother and I deem ourselves to be is a success story. We're not kids. I'm in my late 50s and he's in his late 60s. We're the only ones alive to benefit from any information we might receive. Our parents took to their graves a precious part of our family history, and we both realize that if they were alive, they would embrace

the relationship we have and would be eager to be reunited with their son.

1540

A lot of the things that I see in my brother, I see in my dad and my mom. It's like going home again for me, which is a place that I felt that I'd never achieved before. My brother feels as if it is the family coming together, and he's learned so much about himself as an individual. He has always had a passion for flying, and he learned that not only was his father—and he became a pilot—a pilot but also his half-sister.

I believe, as I say, that the remarkable person he has become is not only in part genetics but also the loving care he was raised in. I know it must have been an extremely difficult situation for my mother in 1938 to have to part with her baby. My mother was the type of person who was very loving and caring, and she showered a great amount of love on myself and my son—her grandson.

We both understand, my brother and I, the rights of individuals who do not wish information to be disclosed. We also believe strongly that laws should be in place in order to protect adoptees and birth parents from not having information divulged. I know that for some people it's not a success story, and we understand that. But for the individuals where families have embraced new relationships, and how new relationships have become significant in their lives—we feel that it's very important for the ones who have the desires and rights to know their family heritage.

That was the reason why we wanted to speak to you today. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sellers, for bringing forward your story. We have ample time for questions. I would offer it now to the Conservative side.

Interjection.

I'll now offer it to the NDP.

Mr. Michael Prue: Pass.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Khalil Ramal: I just want to thank you for your deputation. I have no questions. Thank you very much for presenting to us.

Ms. Sellers: Thank you. There is a written report that is to follow.

The Chair (Mr. Shafiq Qaadri): I think you've just faxed it to us. We'll make sure that each member of the committee receives it. Thank you once again for coming forward and sharing your very personal and moving story.

BASTARD NATION: THE ADOPTEE RIGHTS ORGANIZATION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters, who may introduce themselves but I shall call them the Adoptee Rights Organization: Natalie Proctor Servant, the eastern Canadian regional director.

Welcome. As you've just seen, you'll have 15 minutes in which to make your deputation. I would invite you to begin now.

Ms. Natalie Proctor Servant: Good afternoon, Mr. Chairman, members of the committee and in fact my own MPP, Mr. Sterling; good to see you. Thank you for the opportunity to appear before you today. My name is Natalie Proctor Servant. I'm an engineer by training and a mother of two young children—Sam, who's with me today. But I'm here once again to speak to you as an adoptee rights activist. I am an adoptee and I'm here in my capacity as the eastern Canada regional director for Bastard Nation: The Adoptee Rights Organization.

Bastard Nation was formed as an international group in 1996 with a single goal: to restore the right of adult adoptees to have unconditional access to their own birth information. Our members are adoptees, adoptive parents, birth parents and others connected with adoption. We've had great successes, starting in 1997 with ballot measure 58 in Oregon. In Alabama, our members also helped to work to pass a bill in 2000. In 2004, Representative Janet Allen was able to speak in support of New Hampshire's Senate Bill 335 in their own House of Representatives. She then became the first adoptee in New Hampshire to get her original birth certificate.

I'm here to offer a few comments about this legislation and the process of its implementation to try to ensure as much openness as possible. My comments are to do with limits on vetoes, family medical history, inconsistencies between the two types of vetoes, and fraud prevention.

While Bastard Nation does not support contact vetoes or disclosure vetoes, we know that Judge Belobaba's decision meant that the government introduced Bill 12 in order for the previously passed legislation to take effect in this province.

The new disclosure veto does expire on the death of the person who filed it, but it would be preferable to have a disclosure veto that requires renewal after a number of years. It is my understanding that when New Zealand had information vetoes expire after a 10-year period, there were very few renewals. A person's situation can change in a decade. Vetoes that expire are more likely to be removed than vetoes that have to be actively revoked. Veto expiry would result in more openness.

Along the same lines: At the moment, no-contact notices don't expire on death like disclosure vetoes do. While the two types of vetoes do serve different purposes, I'm afraid that perpetual no-contact notices could mean that some adoptees will choose never to receive their original birth information. They may be unwilling to receive their original birth information if they must first sign what is equivalent to a restraining order. If the person who filed the no-contact notice dies, it seems wrong to continue to withhold the identifying information from the adoptee.

Second, I am concerned that the medical information that may be included in a no-contact notice or a disclosure veto will be inadequate. Both subsections 48.4(4)

and 48.5(7) specify that a brief statement about medical and family history can be included. The current no-contact notice forms only include a blank space for including medical information. Given all that we know about genetics and medical health issues, I believe that more needs to be done to ensure that as much meaningful health information is passed on as possible. I know that a number of the committee members have worked for a considerable amount of time in the health field, and I'm sure they'll understand what I'm talking about.

Other jurisdictions with open adoption records provide forms for passing on medical information that are similar to what you might have to fill out when you go to a new health provider. As part of my submission, I've provided forms from Oregon, Alabama and New Hampshire to the clerk. These sample forms that I've included prompt for health issues and conditions in a number of areas like respiratory illnesses, gastrointestinal, cardiovascular, immune etc. Each form specifically covers at least 30 conditions and allows space for additional conditions that may not be listed. If you're presented with half a blank page in which to include family health history, you may only come up with one or two conditions. Having the list of potential problem areas laid out and prompting for details is much more likely to trigger specific memories of health issues in a person's family. I am certain that this can save lives. I urge you to do whatever is possible to help improve this area of the bill in its implementation.

Third, the bill seems a bit inconsistent in determining which birth parent that a veto affects when an adoptee applies for a no-contact notice versus a disclosure veto. In subsection 48.5(3) of the disclosure veto, it says, "If there are two birth parents, the adopted person may specify in the disclosure veto that it is to be effective only against one of the birth parents." From this it seems that a disclosure veto will apply by default to both parents if they are both listed. Section 48.4, which deals with nocontact notices, has no such stipulation. In fact, the way the no-contact notice forms have been currently implemented requires that adoptees explicitly submit a separate form for each parent. This inconsistency seems confusing, and I do not understand the need to specify this for the disclosure veto and not the no-contact notice. If they will be implemented in a similar way, then it seems logical to have them handled in the same way in the legislation.

Finally, I'm concerned about fraudulent use of vetoes. I'm really happy to see the updated wording in sections 48.4 and 48.5 that makes it extremely clear that the Registrar General will be confirming the identity of people filing no-contact notices and disclosure vetoes. However, I remained concerned that with the forms that have been developed to date, there still remains a risk of fraudulent vetoes being filed. I'm worried that people other than those permitted to file the veto may have enough knowledge of the adoption to convincingly apply for a veto. It is one thing for an adoptee's right to have their information overridden by this legislation by the right to privacy of their birth parents, but it would be

something else entirely to have that negated by someone else. While I recognize that this is likely only a matter for implementation, I think it's important enough to raise it here for the committee.

In summary, I hope that my comments will help increase the openness of this legislation. I would like to see changes in the areas of a time limit on vetoes, an expiry on no-contact notices, a more detailed method for collecting family medical history, consistent application of adoptee veto applications to birth parents, as well as a greater effort to prevent fraudulent vetoes from being filed.

Thank you very much for your time. I'm happy to answer any questions you might have for me today.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Proctor Servant. We have a little under three minutes per side, beginning with Mr. Prue.

Mr. Michael Prue: I'm most intrigued with the idea of the time limit. Have you bounced this off any lawyers or has anybody commented? We are here because of Judge Belobaba's decision. We are constrained in what we need to do, but I'm intrigued if we can do this.

Ms. Natalie Proctor Servant: I think it's doable. Other jurisdictions have done it and then later on gotten rid of the vetoes altogether. If other jurisdictions can do it, why not us?

Mr. Michael Prue: His ruling was quite specific, though. His ruling did not go into this area.

Ms. Natalie Proctor Servant: I'm not a lawyer.

Mr. Michael Prue: That's why I'm asking. Did your group consult with a lawyer or anyone else in coming to this recommendation?

Ms. Natalie Proctor Servant: We did not consult with a constitutional lawyer to determine whether or not expiry of vetoes would be acceptable under Judge Belobaba's decision.

1550

Mr. Michael Prue: In terms of the time limit, you are suggesting 10 years. Is that the norm outside of Ontario?

Ms. Natalie Proctor Servant: That's what I've seen in New Zealand and Australia.

Mr. Michael Prue: I've not heard whether there have been any constitutional challenges of that.

Ms. Natalie Proctor Servant: I don't believe so.

Mr. Michael Prue: So, this would be a way for the Legislature to get around, in a small way, Judge Belobaba's decision and allow people to change their minds over time?

Ms. Natalie Proctor Servant: We think it would allow for more openness, yes.

The Chair (Mr. Shafiq Qaadri): To the government side. Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your deputation. As my colleague Mr. Prue mentioned, we are here just to comply with the court order. I think we are limited in our movements and manoeuvres in this regard.

I wish you good luck. Thank you for coming.

Ms. Natalie Proctor Servant: I really did think it important to get these issues on the record, given that this

bill will come up for review in five years. I think these are issues that are important and will certainly be worth considering at that time.

Mr. Norman W. Sterling: I think it's important to note that the judge pointed out that probably the only reason that the legislation in New South Wales, Australia, is standing up—which is the only one that is wider, in terms of disclosure to past records—is because they don't have a charter of rights, and therefore there's no way to get at the legislative authority of their states or provinces.

I think it would be a mistake to tinker with the provisions of this legislation at this stage. The result would be a further delay in terms of people who might want to gain access and where people were willing to give access in terms of past adoptions. I think the government made a big mistake in the beginning in not listening to our concerns and the privacy commissioner's concerns with regard to the constitutionality of the past law. By tinkering with small details, you might inhibit people from gaining access to records in the future.

Ms. Natalie Proctor Servant: I'm sorry, I didn't catch a question. Is there a question?

Mr. Norman W. Sterling: There isn't a question.

The Chair (Mr. Shafiq Qaadri): Thanks to you for coming forward as well as for the written materials you've submitted on behalf of the Adoptee Rights Organization.

COALITION FOR OPEN ADOPTION RECORDS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward. That is Ms. Wendy Rowney, who is representing-

Interjection.

The Chair (Mr. Shafiq Qaadri): She's coming. She's holding the baby.

Thank you, Ms. Rowney. You're representing the Coalition for Open Adoption Records. I welcome you to the Standing Committee on Social Policy and invite you to begin your deputation now.

Ms. Wendy Rowney: I apologize for the babypassing-off delay there.

My name is Wendy Rowney. I'm here today to speak to you on behalf of the Coalition for Open Adoption Records. The Coalition for Open Adoption Records, or COAR, represents every major adoption group in the province. These groups include the Adoption Council of Ontario and the Ontario chapter of the Adoption Council of Canada. Both are organizations that represent adoptive parents. Every Parent Finders group in the province also supports COAR, as does the Canadian Council of Natural Mothers, from whom you will hear later. COAR also represents many, many adopted people, birth parents, adoptive parents and concerned residents of the province who have joined us because they support open records in Ontario.

I myself was born, adopted and reunited through the government of Ontario. For more than a decade, I have been involved in the adoption community in many different capacities. I'm a former board member of the Adoption Council of Ontario, and I currently serve on the boards of the Infertility Network and the American Adoption Congress. I'm the president of Adoption Support Kinship, the only Toronto group representing the interests of adopted adults and birth parents, and I am on the coordinating committee of COAR. I have worked with representatives at the OACAS, adoption workers from several children's aid societies in southern Ontario, and both Ontario politicians and government employees. I have spoken to and corresponded with hundreds of adoptees and their parents, siblings and grandparents by both birth and adoption. I've spent time meeting and talking with individuals who support and those who oppose openness in adoption.

When I speak to you today on behalf of COAR, I can truly say that I do so with a deep understanding of the issues involved and the real people whose lives they impact. It is important to understand that Bill 12 and the changes it proposes to the Vital Statistics Act will have an enormous impact on many, many people in Ontario. It will allow the vast majority of adopted adults and their birth parents to discover information about each other. My name appears on several adoption websites, and so I regularly receive e-mail messages from people whom I have never met and likely never will. Most of the writers are adoptees. They write me because they long for information about their beginnings. They are like books without a first chapter or movies without the credits. They write to me of their pain, their sadness and their confusion because they cannot know their ethnicity, their background and their name.

These are all things that most people take for granted. I am often asked by people unconnected to adoption why these things matter to me when I have, and had throughout my life, loving parents and a secure home. I can only reply that they do matter; they matter because I am human, and humans feel a connection with the people who came before them. If they did not, genealogy websites would fail, no one would watch History Television and museum exhibits about ancient peoples and those who lived only 100 years ago would falter. But they do not falter; they succeed because humans do need to know their beginnings.

Real people write to me because they are human and they are seeking the key to unlock the door to their own personal past. They hope, because they found my name linked with adoption, that I hold that key or can tell them where to go to have it cut. Poignantly they tell me, "People say I look Italian, but I'm not really sure," and "I just want to find her to say 'Thank you," and "I've thought about my baby every day for the last 44 years and I need to know she's okay." I reply to each of these messages and explain to the writer that the government is working on legislation that may help them. "I hope you

can be patient," I say. "I hope the changes come soon," they reply.

Much has been said in the press and elsewhere that implies that desperate adoptees will violate contact vetoes with no thought of the consequences. We have been accused of being selfish, without conscience and obsessed. We are none of these things. We are ordinary people who hold down jobs, raise families and own homes. We are desperate for information, but that does not mean that we are going to act desperately. I know that adoptees and birth parents will respect contact vetoes because they have been respecting the wishes of no contact for decades.

Adopted adults and birth parents have been searching and finding each other for years. Of the hundreds of adoptees and birth parents with whom I have had contact, I am not aware of a single one who has repeatedly or persistently forced himself or herself on an unwilling birth parent. No one wants to face that kind of repeated rejection, and anyone who tells you otherwise is reacting to fear of what might be rather than reflecting upon a real situation.

I understand that the court's ruling on information release in adoption makes it pointless to speak against a disclosure veto, and this is something I have no intention of doing. I do, however, want to leave you today with an understanding of the impact these vetoes have on the individuals affected by them. We know, by looking at other jurisdictions that have given adoptees and birth parents the option of filing a disclosure veto, that very few people will opt in. The vast majority of people will be able to access information they seek, but I want to focus for a moment on the 2% to 3% who won't.

We all, I think, understand that there are some adopted adults who do not want their birth parents to find them. We understand that there are some birth mothers who do not wish to meet the adult version of the child they surrendered many years ago. No one thinks that these people should be forced into an uncomfortable or unwanted situation.

Many people unconnected with adoption welcomed the court's ruling on adoption disclosure because I think they felt sympathy for the people, particularly birth mothers, who did not want to delve into the past. What they seem to have forgotten, however, is that for every disclosure veto filed, someone else's dreams are dashed. A disclosure veto, it is true, provides a protection of sorts for the person who files it, but it also blocks an equal number of people from ever knowing their own name, ethnicity, medical history and beginning. It means that there will be adults who were adopted as children who will never know how they began. It means that there are women and men who will never know what became of the child they created and often unwillingly placed for adoption in an era when there were few other options for unmarried women. We cannot forget these people. We cannot forget their pain and confusion as they struggle in the face of rejection of the most personal sort.

1600

We need to look to the bill itself and focus efforts in the regulations, in the advertising campaign and, in subsequent years, on the bill's intent: openness in adoption for adults.

COAR urges the government to regulate the release of non-identifying information, the operation of a government-run mutual match registry and a search service. We hope the government will permit not only adopted adults and their birth parents to access these services, but also other birth relatives. Birth siblings and grandparents often long for information about their missing relatives.

I myself was matched on the government registry with my grandmother, my birth mother's mother, who had sought information about me when I became an adult. Both my grandmother and I wanted to find each other. The government-operated registry allowed us to do so. The adult children of adoptees also seek information about their ancestors and heredity. Allow them to receive non-identifying information and place their names on a registry.

The sections of the bill that we were asked to address today mention the release of medical information, and I want to do the same. Disease does not recognize adoption. Cancer, kidney failure and heart disease do not seal themselves up along with the adoption order when it is signed. They stay within the adoptee's body and wait for the moment when the disease will manifest itself and show its hereditary nature.

COAR urges the government to make mandatory the release of medical information should an individual choose to file a disclosure veto. Alternatively, COAR urges the government to request periodic medical updates from individuals who file disclosure vetoes. We understand that no one can be compelled to release private medical information, but we hope that the government will at least level the playing field. In families not impacted by adoption, individuals can ask relatives for medical histories. They may not receive this information, but they can ask. Allow adoptees and birth relatives to ask, through the government, for these same medical histories.

Finally, we urge the government to reconsider the criteria for health searches. Recently, an adoptee applied for a medical search on behalf of her teenage son, who has been unable over a period of months to keep any food down. His weight has dropped drastically and his doctors are asking for family medical history. While the boy lay sick, unable to get out of bed, his mother was turned down for a medical search without any explanation by a doctor who had never met the boy or his attending physicians. They didn't even try to contact the birth family to discover if they would be willing to share their medical history. Privacy is important but so is life, and no one should lose theirs because they are denied access to information that should be readily available.

It is the holding of secrets that makes us think that the thing should be secret in the first place. In jurisdictions where adoption records have never been sealed, people are often confused as to why they should be. Openness breeds truth and honesty.

Send Bill 12 to third reading and bring truth and honesty into adoption in Ontario. Please do not allow those who seek to instil fear of what may occur to persuade you to make it more difficult for adults, who happen to have been adopted as children or happen to have surrendered a child, to behave as adults do and make decisions about their own personal lives. We need no more protection than what the bill already offers. We are real people who simply want to know who we are and how our children fare. COAR urges you to send Bill 12 to the Legislature for third reading without amendment.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Rowney.

We'll have about a minute or so per side. To the government side.

Mr. Khalil Ramal: Thank you very much for coming. It's nice to see you again. Hopefully, this time we'll get it right.

Ms. Wendy Rowney: I hope so.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal.

To the Conservative side. To the NDP.

Thank you, Ms. Rowney, for coming forward and for your written materials as well as all that you've shared today.

PARENT FINDERS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward, and that is Monica Byrne, who is the registrar of Parent Finders. Welcome. As you've seen, Ms. Byrne, you'll have 15 minutes in which to make your deputation. I'd invite you to begin now.

Ms. Monica Byrne: Good afternoon. My name is Monica Byrne and, as you've noted, I am the registrar of Parent Finders in Ottawa. We are part of a volunteer-run search and support group that runs across the country, and we are the Ottawa chapter. We have been in existence for more than 35 years and I personally have been involved for more than 22. So I have a lot of experience with adoption and adoption reunion. I have also been co-chair of the Adoption Council of Ontario at one point. I was the Canadian liaison to the American Adoption Congress, and I have a lot of other related experience.

I have also spoken before this committee on four previous occasions: in 1994 for Bill 158, for Bill 77 in 2002, for Bill 183 in 2005 and now this bill one more time. Most of the other bills never made it off the mark. They died in various ways. So for 20 years of my life and the lives of many of us here, we have been fighting for changes to Ontario's somewhat archaic adoption laws. We've waited for readings, next amendments, next challenges. We have argued the importance of every aspect of adoption reform. I, together with the adoption community, cheered greatly when Bill 183 was finally passed

and proclaimed in 2005. Our sadness was equally great when the disclosure clauses were struck down by a judge's decision. A suit brought by three adoptees and a birth father changed all our lives.

I am personally a reunited birth mother. That is, I gave away my child in the 1960s simply because I was not married. Through my own hard work and intense research and searching, I found her when she was 21. I had married her birth father. She turned up at a Parent Finders' meeting without knowing that I was running the meeting. It was somewhat of a shock for all of us. I did not, at that point, make myself known to her. I nearly died of shock at the time. As you can imagine, it was very frightening. I was the one who birthed her. She has a wonderful mother who raised her. There are two of us in this story—two mothers. We're very civilized about this reunion. My other children are her full siblings; life goes on; it's okay.

I am one of the older birth mothers—that is, from the 1950s and 1960s—about whom the privacy commissioner, Ms. Cavoukian, felt it so necessary to worry. I am the birth mother for whom she decided to speak here in this very room, and I am one of those birth mothers whose privacy she felt it very necessary to defend, lest it be violated by a searching adult child. Despite all sorts of evidence—documents, debates, statistics, world experience—to the contrary, the privacy commissioner and her office refused to listen to the majority vote of the adoption community.

I wrote to Ms. Cavoukian on a number of occasions, only to be ignored. In fact, she spoke here at the last hearings and told awful tales of calls and letters from terrified, anonymous birth parents about to commit suicide should their adult children be permitted to learn the truth of their identities. She chose to ignore the rest of us who welcomed openness.

Bill 183 was challenged in court, and the rest is history. A disclosure veto was added to Bill 183, and it's now called Bill 12. It has been estimated and corroborated by evidence from other communities that the new disclosure veto will affect between 2% and 5% of the adoption population. We all understand that there are a very few people who, for whatever reason, do not want to be found, and we respect them, but it is very necessary for the members of this committee and the public at large to recognize that this is a very small group. It in no way represents the majority. There's another 95% of people in the searching adoption community who want to find and be found. Therefore, a couple of notes need to be made about this disclosure veto, as I have been told to confine my remarks about the bill to the disclosure veto clauses.

(1) There is no statute of limitations on the life of this veto. It only dies when the person who places it dies or withdraws it. At first glance, that seems well and good. Once the government has proof of the death of the person, the veto is removed. But therein lies the problem. How exactly will this happen?

Let me suggest a scenario where the birth mother moves to Florida, retires and dies. How will the information of her death ever make it back to the office of the Registrar General? We recommend that all vetoes require renewal after a certain length of time—five years, 10 years, whatever the choice would be. This would prevent the necessity of the adoptee pestering the Registrar General's office every year to see if his or her birth mother had passed away. That's what's going to happen. It will ensure that the Registrar General's office will be better able to monitor this list of vetoes. There is no other way to find out who has died and match it to the list. The clause says that the notification, once the person has died, will be matched and the person will then have to furnish proof that the person has died in order for the veto to be removed. If I'm the adoptee, how will I know that the person has died if I don't know the person's name? So the whole thing becomes very problematical.

(2) If a disclosure veto is placed, the proposed legislation states that the person "may" give a reason and provide medical history. "May" is the word in the act. We feel this should be a requirement, not a "may." It seems only fair that when someone is so drastically depriving someone else of their personal identity information, they should at least be required to give some information around that decision. We have found that when people are given an honest and real reason for not wishing to be in communication with the other person, as long as they feel it is the truth, they will be more likely to accept the situation. I know this from experience with Parent Finders, having made outreaches. If the person gives a reason— "My husband is ill," "My dog is not well," "My children don't know," whatever-something very, very specific, something reasonable with warmth and truth attached to it, the other person will be more likely to accept that. It's just human nature. If you just have a disclosure veto with nothing-so it's not "may" require; it should be "should" require.

A refusal with no reason is not acceptable and can cause much deep emotional pain. We recommend that all disclosure vetoes require a reason and a relevant family medical history. Further, as already pointed out, not being required to give a robust family medical history is not sensible, but at worst can be a life-threatening situation for some people and completely unacceptable.

The trouble with disclosure vetoes is that searchers, despite a refusal, often continue to seek the truth. I am not now debating whether we should have a disclosure veto, for I understand that that is fixed, but I do wish to make a remark about these disclosure vetoes. Over the years, I have made many outreaches—over 800 or 900 to persons who have categorically refused contact or information exchange through the old government search system, so I've come in after the old ADR-adoption disclosure registry—has made a search. The birth parent usually has refused and I've come in because I'm not bound by those rules-or I wasn't-and I have done a search for that person and contacted them six months, a year, two years afterwards. I can swear on a bible that I have never been refused. I have made contact with people who did not know they were adopted. I have made contact with women who have been raped and with adult children who were the products of rape. I have talked to women who fear their husbands finding out about the baby. But in all cases a way has been found to make disclosure possible while protecting people from the harm that they may fear. Disclosure is complex, but it can be carefully handled. What I'm saying is that sometimes what seems like a drastic situation at one time becomes less so as time passes, or may become less so.

How will this disclosure veto allow for changes to the human circumstance? I urge the committee to understand what an information disclosure veto means to those on the receiving end of this life sentence and make the disclosure veto in Bill 12 as humane as possible and as positive as possible.

The members of this committee need to look at the meaning of an information veto and not just at the legal and bureaucratic words in Bill 12. These vetoes will bring untold sadness to a great number of people. I urge you to do the right thing and consider the effects of a veto over the life of a human being and of his or her children. This is the original identity of another person we're speaking about. Make the veto renewable and the information inclusive. Then, in time, we may do what other jurisdictions like Australia did after a 10-year term and scrap the disclosure veto once it becomes obvious that it was unnecessary and contrary to equality among the adoption triad.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Byrne. We'll have just under a minute per side, beginning with the PC side.

Mr. Norman W. Sterling: I defend our privacy commissioner very much. Is it not true that every other privacy commissioner, including the Privacy Commissioner of Canada, agreed with her on this issue?

Ms. Monica Byrne: I understand so.

Mr. Norman W. Sterling: The other question I have is with regard to a veto. Do you think that we are in a position to make that conditional?

Ms. Monica Byrne: I think so.

Mr. Norman W. Sterling: I read the judge's decision that the right is in the hands of the person who exercises that veto. Would it not be precarious for the committee to make that veto conditional upon giving health information? I am all for as much disclosure of health information as possible, but I'm looking at the legal aspect of it and how definitive the judge was with regard to his decision, that under the Charter of Rights a person has the right to a veto.

Ms. Monica Byrne: I understand that, Mr. Sterling, and I would—

The Chair (Mr. Shafiq Qaadri): Ms. Byrne, with respect, I will have to intervene there and now offer it to the NDP side.

Mr. Michael Prue: Go ahead.

Ms. Monica Byrne: Can I finish on that one?

Mr. Michael Prue: Yes, yes. I ask the same thing.

Ms. Monica Byrne: I would put some wording into the statement that these people sign when they are declaring this disclosure veto. I would put a statement in saying how extremely important it is that people give a full and robust medical history and a good reason—not just "may" but "should." There is a way to say it in such a way that it's reasonable.

Mr. Michael Prue: In terms of the statute of limitations, a previous deputant said 10 years. Do you—

Ms. Monica Byrne: I think 10 years is reasonable. I do know that people are going to come back every year to the Registrar General's office to find out if mum died, because that's the only way. They will have to go and check the death registries to see if Mrs. Jones, who's registered this disclosure veto, has died. It's going to become very—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. To the government side.

Mr. Khalil Ramal: Thank you very much for coming again. I still remember you when you came the first time, and you were as passionate about it as you were today, maybe even more. As you know, we are back here to debate this very issue because of the court order—

Ms. Monica Byrne: We understand.

Mr. Khalil Ramal: —and hopefully in the future something will change. Thank you very much.

Ms. Monica Byrne: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal, and thanks to you as well, Ms. Byrne, for coming forward, for your story about Parent Finders and the organization.

STEPHEN FORREST

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter, Mr. Stephen Forrest, to please come forward. Mr. Forrest, as you've seen, you have 15 minutes in which to make your deputation. I would invite you to begin now.

Mr. Stephen Forrest: As you know, my name is Stephen Forrest. I am an adoptee and I come to you now not on behalf of any organization but merely on my own behalf, offering the perspective of an adoptee to the committee.

I should say that this is actually the first time I have ever been in a room with other people who have been personally concerned with the issues of adoption disclosure, but I felt, in my own perspective, very much concerned with this enough to come forward.

I was born in 1977 in Hamilton, Ontario, and was adopted shortly after birth. The sum total of what I know about my birth family is contained in these documents, my non-identifying information. My adoptive parents, my parents—which, of course, when I use the term unqualified, is what I mean—were always very good with me regarding the issue of adoption. They never felt any need to conceal the knowledge from me. They informed me of the fact that I was adopted prior to even my

knowledge of the facts of life. The fact that my sister was adopted even permitted my parents to avoid certain awkward questions about the facts of life, because babies come from children's aid.

1620

I must say, from reading my non-identifying information, I'm very much aware that the successes that I've had in life and the opportunities that have been afforded me are greatly due to the circumstances of my adoption and the family with which I was placed. I am certainly a textbook case of evidence for the fact that the adoption situation worked out for me.

I was always interested in the issue of meeting my birth family. My parents had always told me that once I reached the age of majority, I could pursue some means of information-seeking or possible contact. I was a bit chagrined to learn, when I first turned 18 and looked into it, that there was probably about—at the time, the system in practice was the adoption disclosure register, and I was a bit chagrined to learn that it would be five years before an active search would be conducted on my behalf.

As far as the question of rights, this is something that I have had to think about for a great deal of time and ultimately settle on what I personally believe—because this is an issue of personal values. I do believe that every person, adoptee or otherwise, has a right to know as much about their origins as circumstances will allow. There are, of course, people for whom no information is available. For example, many of the children currently being adopted from China will never know the details of their particular origins. In my case, the details of my origin and my birth family are locked away in a safe somewhere. They are prohibited by my government from my knowledge.

As far as my motivation for being interested in contacting my birth family or possibly learning information about them, I do not expect or especially desire to have a relationship. I would certainly like to know what aspects of my personality traits, interests, that sort of thing, are related to theirs. But more or less, it's an issue of curiosity and an issue of my place in the world. It's a thing that not everyone can relate to—going through life every day and knowing people to whom you are biologically related.

Regarding the issue in question, it's my belief that of course we have to reach some sort of reasonable compromise between the rights to past information and the past promises that have been extended to birth family members.

The disclosure veto system has extensive precedent elsewhere in Canada and elsewhere in the world. I feel that it is at least measurably better than the current system—by which I mean the system preceding the introduction of Bill 183; that is, the adoption disclosure register. It's my belief—and this is speaking as someone who has not formerly met adoptees for the sake of meeting adoptees, but just essentially met other adoptees by chance through life circumstances—that the majority of people on either side of the adoption gulf will often

not necessarily seek to traverse the adoption gulf but at the same time will not be traumatized or alarmed by someone else attempting to traverse it. There are, of course, a number of people who feel strongly about the matter one way or the other, but the benefit of a disclosure veto system is that at least it allows the people on one side of the gulf who are not necessarily averse to being contacted or having their information divulged—at least that allows their information to be released to the other people if they are concerned about that.

With regard to the more practical question regarding the legislation in question—and I actually thought of this myself independent of it being raised by past speakers. There is quite a logistical question in practice for the issue of a birth parent dying and how on earth we are to inform the government of this fact and suspend a disclosure veto. In truth, it seems to me that after the birth parent is deceased-many of these are people who in many cases had not told any of their close relatives or friends about the fact that they once gave a child up for adoption. There are many cases in which that information will not be revealed. So, if it is possible, I would personally support a system of regular renewals. There have been other issues raised on the panels thus far about its constitutionality and whether or not it would comply with Judge Belobaba's decision. If that is not possible, then, as a secondary idea, I would suggest a system whereby an adoptee who really wishes contact could make an official request of the government to attempt contact every so often; essentially, to try to check death records and such things to see if there's any evidence that this individual in question is deceased. This would, of course, have to be something that would be time-limited, something that they could only do every few years, because we wouldn't want to flood the government with such requests.

I would close my remarks by saying that I believe that the current proposed system is, as I say, measurably better than the existing status quo and would definitely grant a lot of the information that is being sought to many of the individuals in question who are seeking it currently, so I would encourage its passage.

The Chair (Mr. Shafiq Qaadri): We'll have under two minutes per side, beginning with the NDP.

Mr. Michael Prue: Again, it comes down to the limitations. You've heard a couple of previous deputants, because you've been in the room, talk about a 10-year limitation period. Do you concur with that time frame?

Mr. Stephen Forrest: That seems acceptable to me.

Mr. Michael Prue: That seems to be the nub of your argument. Other than that, you supported the previous bill and you support this bill.

Mr. Stephen Forrest: I support this bill because it is, in many ways, an issue of practical consideration. I am not exactly sure where my loyalties would lie if we were not so constrained by Judge Belobaba's decision. Given those constraints, I support this bill.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Khalil Ramal: Thank you very much for coming.

The Chair (Mr. Shafiq Qaadri): To the Conservative side.

Mr. Norman W. Sterling: I like your second idea in terms of a veto after someone would die, and that is that there'd be some obligation upon the government, on the request of somebody after a period of, let's say, 10 years, to attempt to re-contact the person who has exercised the veto. But I must say that I think you could be getting into problems again if you didn't make that contact and you took the veto off. I think your second choice is not a bad idea, and that is that an adoptee or a birth mother be able to contact somebody in the registry office and say, "Will you make an attempt to contact," and they'd just respond as to whether they were contacted or not contacted, and that would be it.

Mr. Stephen Forrest: As a response to that, though, I would say that it is very much a secondary choice. I think what it would essentially involve is setting up a bureaucratic structure rather like the adoption disclosure registry, and these searches for death records would be subject to availability of ministry employees.

Mr. Norman W. Sterling: But you're only dealing with 2% to 5% of the records. You're not dealing with a huge number of records when you're going through this kind of process, and you're only dealing with people who request it, so you're probably narrowing the real job to a relatively minor task.

Mr. Stephen Forrest: The other issue is, of course, as someone said, that people do change their minds and it is perhaps—anyway, I think I've made my point.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Sterling. Thank you, Mr. Forrest, for coming forward and for your deputation.

Our next presenter, if they're available—I understand we had some problems contacting them—is Anazola Linton. Are they present? If not, we'll move, if possible, to the next presenter, and that is Erika Klein. Is Ms. Erika Klein here? If not, we will move to our next presenter.

1630

MARILYN CHURLEY

The Chair (Mr. Shafiq Qaadri): Our next presenter, whom I think, first of all, the committee is privileged to have in the person of the honourable Marilyn Churley, is a former member of provincial Parliament, elected September 6, 1990, and serving until November 29, 2005, and, of course, having been one of the spearheads in terms of this whole adoption process.

Ms. Churley, personally and on behalf of the committee, I welcome you. You've no doubt been long familiar with the drill. You have 15 minutes in which to make your deputation, and I would invite you to begin now.

Ms. Marilyn Churley: Thank you very much, Mr. Chair. It's a pleasure to be here on this side of the table. I think I did this many, many years ago, but not for the last 20 anyway.

I'm not going to say a lot. You've heard me say that before, of course, and then go and on, but I'm here

mostly to follow through with this bill. As you know, I started—some people refer to me as the mother of the bill, although I think the real mothers of the bill are sitting back here today, the people who certainly inspired me, some of whom have already spoken to you.

I want to give you a little bit, though, of a history and understanding of why the adoption community at large—and you're hearing from most of them today, the leadership in this area—fought hard and why I fought hard for the disclosure veto. I understand that we're not fighting that battle today. I understand the court decision. I was in the court and, even though I'm not a lawyer, I would still say that if I had time today I'd make my case for why it's appealable, Norm, but I won't.

Mr. Norman W. Sterling: You're not a lawyer.

Ms. Marilyn Churley: No, I'm not a lawyer, nor an engineer, but I was the Registrar General of Ontario and I do understand these issues fairly well, and the Charter of Rights. But I'm not going to go into it, because here we are today with a bill before us which I am generally supporting. I think it should go back to the House without amendments and of course, as everybody says, the devil is in the details. Please, work with the experts from the community as well as the children's aid and others, who really understand what you need to put in the regulations to deal with some of the issues being raised today which are of vital importance.

What happened, and what led us to this situation—Mr. Sterling was around, I believe, at that time—is that in 1979 the first disclosure registry in North America was set up. Ontario was in the leadership; in fact, it was Ross McClellan, if you'll recall, from the NDP, who brought forward the amendment to set that up. Then, in 1986, John Sweeney amended the acts related to adoption disclosure. That was passed in 1987. In 1990, there was Bill 233, by Charles Beer. In 1994, my former colleague and now MP Tony Martin brought forward a bill. Then, in 1998, a Liberal former colleague and now my former colleague Alex Cullen brought forward a bill.

Then, in 1998, I brought forward Bill 88. In 2000, I brought forward Bill 108. In 2001, I brought forward Bill 77, which reached the committee, which is highly unusual for a private member's bill, as you well know. We came here and tried to get third reading, but again, weren't able to get it through the House. Then, in 2003, I brought forward Bill 16, the Adoption Disclosure Statute Law Amendment Act, and then Bill 60. Then, in 2003, another bill, Bill 14—I'm sorry; Bill 60 was a Conservative bill by Wayne Wettlaufer. Then, of course, as you know, Bill 183 was brought forward, and now here we are today with Bill 12.

My first bill, when I brought it forward, did have a disclosure veto as well as a contact veto, but after research around the world in other jurisdictions and consulting with the community, I came to the conclusion that because Ontario was so far behind many other jurisdictions—notwithstanding that British Columbia was the only province at that time which had brought forward new adoption disclosure laws. Looking at, for instance,

and it's cited a lot today, Western Australia adoption disclosure reform, they brought in a phased disclosure or information veto, as they call it. That was known from the beginning. They also did, over the years, in-depth studies to look at how it was working, how many people applied for them, and the reasons why the disclosure was put in place in the first place and whether or not it was working. They came up with some very strong research and statistics.

There are other jurisdictions, of course—England, Scotland; you've heard them all rhymed off—some of which never had disclosure vetoes. So I thought, because we were so far behind, that we should try to get ahead. And in some of the other jurisdictions, it's granted—privacy commissioners in Newfoundland and Alberta and BC also opposed the disclosure veto for the same reason. In fact, they started off opposing any kind of retroactivity.

That's what led us to this point. We believe very strongly that it was the right thing to do, that even if it's a small percentage of people who are being left off, their dreams will be dashed; their desire to know who they are, if they are an adoptee, will be dashed. The birth mother's hopes and dreams of finding out what happened to her child will be dashed.

That was the reason why—again, doing research, we saw that the contact vetoes worked, that the legislation was not about forming a relationship or the right to a relationship, but the right to information about yourself. I still firmly hold to that view. From my point of view, that will never change. I will continue that fight, but not here today. I know where we are today.

Having said all of that, I'm still pleased with the bill as it is. I'm disappointed in that aspect, but we have moved a long way from the days when I first started working on this bill—and many of the others in the room today—from the absolute attitude from many that there should be no retroactivity whatsoever. So we have come a long way. That's why I'm pleased to support the bill today and want it to go as is and then work with you, if you so invite me, on the regulations.

I do want to talk about two pieces. Am I almost done, after having said that I wouldn't talk long?

The Chair (Mr. Shafiq Qaadri): You have about eight minutes left.

Ms. Marilyn Churley: Good.

The health matter: Others have talked about it, so I don't need to go into a lot of details, but it is of vital importance. I understand that there's a privacy issue here and that you can't compel people to give information. But, as others have said, it is so important to do everything you can—even if it costs a little money, government people—to not pressure people but to make it as easy for them and compelling for them as possible to give that information.

Some of you may remember from when I was here that on one of my bills we had Dr. Philip Wyatt, a chief of genetics at the North York General Hospital, come in and talk about the number of inheritable diseases that are

known about now: 2,500. That was a few years ago. They emphasized that every individual must understand his or her medical background so that he or she may decrease the chances of suffering from a potentially fatal inherited condition, such as breast and prostate cancers. There are so many more diseases that we now know and that there's special screening for. The government funds some of the special screening if you know these diseases are in your family. These people are left out. Again, granted, it's now going to be a smaller percentage, but there are still going to be some people out there who will not have access to their personal, private information.

1640

The other thing I want to touch on briefly is that I would like to see the registry brought back. I believe, Mr. Sterling, you may have raised that, in fact, and Mr. Prue. That's something that I was not in favour of getting rid of in the first bill, in Bill 183. There are some people who cannot afford—now, we weren't happy with the service under any government, including my own. The level of service that the registry was offering people got worse and worse progressively, but it's absolutely necessary to be there, because some people just will not be able to afford private investigators. You can set up a reasonable fee. I would really urge the government to look at bringing that back in some form.

The other issues have been touched on and will continue to be by others. I think I'll stop there and just thank you very much for this opportunity to come forward today and give you my views on Bill 12.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Churley. About a minute or so, a little bit more, per side. Mr. Ramal?

Mr. Khalil Ramal: Thank you very much. We got used to seeing you on the other side. Now you're on another side, still as passionate about this issue as you were in the past. I know what you're talking about. You remember our position as a government in the past. As a result of the court order—you, I and many people in Ontario are respecting and honouring it. That's why we're back today.

As you mentioned, this is still a progressive bill. It can speak to many different elements of our issue here. Hopefully, in the future, with your advocacy and many others, something will change.

Ms. Marilyn Churley: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Sterling?

Mr. Norman W. Sterling: I'd just like to congratulate you, Marilyn, on your advocacy on this issue for such a long period of time. I only wish that you had stayed with your original submission, to find the proper balance between privacy to people who had been promised it in the past and going forward. Had we done that, perhaps we could have been passing this law 10 years ago.

Ms. Marilyn Churley: Thank you for your compliment. I will say, however—Mr. Sterling, may I remind you that you and some others were adamantly opposed to any kind of retroactivity back in my first bill, and in Tony

Martin's and others before that? It ended up coming down to the disclosure piece in this last bill.

We have come a long way, and you've come a long way. You really have. I thank you for that. You started off being adamantly opposed to any retroactivity whatsoever. So I thank you, actually. I don't mean it facetiously. I think that it can be a difficult issue for people and I thank you for the years of—I know you've been dealing with this, as I have, for a long time, on different sides. But you have learned and listened, and I thank you for your support for the retroactivity.

The Chair (Mr. Shafiq Qaadri): To the NDP. Mr. Prue.

Mr. Michael Prue: Two groups, one before you got here and I think one while you were here—the first one, Bastard Nation: The Adoptee Rights Organization; and the second group, Parent Finders, with Monica Byrne—suggested a 10-year veto. You are asking to pass it as is. Are you suggesting you don't think we should include a 10-year veto?

Ms. Marilyn Churley: I would certainly support their position on this. I certainly don't want it watered down. Anything that will strengthen it, I would support. If the real experts here today support that, absolutely, yes.

Mr. Michael Prue: Okay, so you want us to pass it. But if I were, as an example, to put in a motion asking for a statute of limitations for 10 years, that would not cause you grief?

Ms. Marilyn Churley: That would not cause me grief. That would make me jump for joy. That would be a good thing.

Mr. Michael Prue: Thank you.

The Chair (Mr. Shafiq Qaadri): On behalf of the committee, Ms. Churley, I thank you on multiple fronts: for your continued advocacy in this issue, for your presence today and for your decade-and-a-half service to the people of Ontario as an elected representative.

Ms. Marilyn Churley: Thank you very much, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter; again, if they'd be present, Anazola Linton. If not, then we'll move to Ms. Erika Klein. If not, we'll move to Ms. Joy Cheskes.

JOY CHESKES

The Chair (Mr. Shafiq Qaadri): Please come forward. As you've seen, you'll have 15 minutes in which to make your presentation. I invite you to begin now.

Ms. Joy Cheskes: Thank you for the opportunity to speak to you today. My name is Joy Cheskes. I'm here today as a non-searching adoptee to voice my support for Bill 12.

I am 43 years old, a teacher, a mom to a teenage daughter, a sister with four siblings and the daughter of two wonderful parents. I was adopted when I was a baby and raised from a very early age to know that I was adopted. In fact, I don't recall ever not knowing this fact.

My parents obviously handled this information with care and sensitivity.

For whatever reason, my status as an adoptee never became an issue for me. I never felt the void that many other adoptees feel. I never wanted to look for information or seek out my birth parents. I lived my life knowing that if I ever changed my mind, however, there was a disclosure registry that I could use which would allow me to access information if my birth mother had registered as well. I chose not to use the registry. I chose to live my life looking forward into the future, not back into the past.

That's exactly what I did until I found out, through a newspaper editorial, that the very personal choice I had made not to join the registry and therefore keep my records sealed was in danger of being taken away from me and that the government was going to retroactively change the rules of the game by opening records without my consent. Up until this point, I have to admit I was very naïve to the fact that there were open-record activists in the adoption community and I had no idea that they had been working alongside the government for such a long time to unseal records at all costs.

Without going into too many details, my outrage and disbelief led me to try to do something to stop the original bill from going through without giving adoptees as well as birth parents the option to opt out of this retroactive legislation, in the form of a disclosure veto. I soon found out that Bill 183 was so extreme that it would truly be the only one like it in the world, except for New South Wales, which, as was mentioned earlier, does not have a bill of rights, as we do. I set up a website, wrote letters to the paper and to MPPs and started a petition, and of course, all of that was to no avail.

As you may know, I eventually became one of the four applicants in the charter challenge launched by Clayton Ruby, to whom I will be eternally grateful, against the new information disclosure act. All we wanted was the ability, as adults, to decide for ourselves if or when we would allow the government to release our personally identifying information. We felt it was the government's responsibility to protect our right to privacy and to respect our personal reasons for maintaining our privacy, without having to go through the trauma of pleading our case before a panel of strangers in hopes that they would deem our reasons to be worthy. We wanted the same rights afforded to other non-searching adoptees and birth parents in BC, Alberta and Newfoundland, all provinces that had passed retroactive adoption disclosure legislation. We simply wanted an automatic no-explanation-necessary disclosure veto, and we were not the only ones. Hundreds of letters were sent to me via my website, to the privacy commissioner and to members of the Legislature explaining the harm that would be caused by the disclosure of their names. Over and over again, the main message was that the disclosure without consent was the harm. Of course, the reason we're here today discussing Bill 12 is because Judge Belobaba of the Ontario Superior Court of Justice agreed that the law had

to include a disclosure veto and that the law, in fact, was in breach of the charter without one.

I'm relieved, to say the least, that finally we have a bill on the table that is balanced and fair. This law will allow the vast majority of searching adoptees and birth parents access to the information they want, including medical information, while protecting individuals in the adoption community who wish to maintain their privacy. This bill recognizes Privacy Commissioner Ann Cavoukian's expertise in privacy matters and rightly follows her advice. This bill complies with the Charter of Rights and Freedoms by including a disclosure veto.

In closing, I'd like to say that I certainly understand that many adoptees and birth parents have a great longing for information. I believe that making records more accessible on a retroactive basis is important. I also understand that many people in the adoption community have had to wait even longer for the changes in legislation to occur, given the result of the charter challenge. Therefore, I urge the government to do what is possible to pass this legislation in a timely manner so that searching adoptees and birth parents will be able to access their records. I also urge the government to make the disclosure veto one without a time limit, but instead make it easy for people to voluntarily rescind it if they choose and when they choose. I believe the other provinces set this up on a website so that you can go in and change that veto if you chose to do so.

Lastly, I urge that the government would word the legislation in some way that will strongly urge people who use a disclosure veto to regularly update medical information. I believe that this should be prominent in the government's information campaign to Ontarians about the new legislation. Thank you.

1650

The Chair (Mr. Shafiq Qaadri): We have about three minutes per side, beginning with the PC caucus.

Mr. Norman W. Sterling: I just want to congratulate you on taking your beliefs to the end, to the courts of Ontario. I know when Clayton Ruby was here with a previous bill, he sat at the very table you are sitting at and said that this is not constitutional. But the government of the day wouldn't listen to that and went on its merry way. As a consequence, we're now probably going to be a year, a year and a half behind where we might have been had they listened to a reasonable balance and the submissions that you, Mr. Ruby and Mr. Denbigh Patton put forward to this committee. But it takes extraordinary citizens to go to the length and ends that you have, not being part of a group that is—whatever. You were the leader, and I just want to congratulate you on this fortitude that you had, Joy.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: Every deputant, including yourself, wants the bill to be passed. So far I haven't had anyone say, "Don't pass this bill." The only question comes down to whether we pass it as is or whether we take the suggestion of two or three of the deputants and put a 10-

year time limit. You're suggesting that you don't want that time limit. Am I correct in that?

Ms. Joy Cheskes: That's what I'm suggesting. I'm no expert, but as far as I can tell, and I'm not sure if every other province has this—I don't know if you know that. Is that the experience of the other provinces? I don't know.

Mr. Michael Prue: I'm going to have to ask the lawyer that in the end.

Ms. Joy Cheskes: That is my suggestion, that there be a disclosure veto, no questions asked, and that there not be a time limit on it, but that there be something on the website, for example, where you can easily go in and rescind that at the time of your choosing, if you choose that.

Mr. Michael Prue: One of the first deputants—I'm not sure if you were in the room—talked about the difficulty if people die, and it's not generally known by the government if they die in a foreign jurisdiction, as an example. Would a time limit not aid someone in knowing—they wouldn't have to wait any longer than 10 years to find out that their birth parent, as an example, has died?

Ms. Joy Cheskes: I agree that that is a difficulty—I'm not going to argue with that—when it comes down to the particulars of it. I think we would have to consider too that a fairly small portion of the adoption community is going to use a disclosure veto. But I'm not an expert, as I said. I do realize that that's a difficult part, and I would hope we would look at other jurisdictions in Canada and see how they've tackled that one.

Mr. Michael Prue: How would it cause you personal difficulty to re-register every 10 years if you didn't want the disclosure? I'm just trying to think about the average citizen. Every 10 years doesn't seem onerous.

Ms. Joy Cheskes: It wouldn't be an enormous difficulty for me. I'm thinking that if I missed the deadline and the information was released, then it's being released without my consent. If the government takes that position, that I have a deadline to meet, and it's my responsibility to meet that and I don't, and they're going to release the information, it's against my consent, as far as I'm concerned, in that sense.

Mr. Michael Prue: Thank you.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Dave Levac: I appreciate the opportunity. I'd like to echo how my friend and colleague Mr. Sterling characterized your journey, as I did in the previous committee I sat on to do the bill for Ms. Churley; to congratulate all those who have advocated for the type of legislation that's necessary to bring to light some very difficult human stories. I was completely blown away by everyone's story, and I'm sure that you have gone through a story that needed to be told and needs to be rectified. I appreciate your courage and your fortitude to see it through.

However, you may be a little bit surprised to hear that I don't necessarily agree with the characterization of Mr.

Sterling that the government is as bad as he sometimes says it is. Having said that, there are many instances and examples in this topic alone where legislation is very complex and a complex issue that needs some time to flesh out. If you listened to Ms. Churley's presentation, you heard that there were no less than seven attempts to write legislation to get it right. So to you, I would say that we're going to get it right. I believe that we're going to get it right. There's probably some more work to do. All bills that I'm aware of eventually do get some amendments even though they're the bill of the day. So we'll probably pass this bill; I'm guessing we're going to pass this bill in the government with the support of everybody. It would still require us to take a look at it to see if there are some improvements to be made. I would encourage you to continue your journey and to pay attention to what's happening on this front, and I welcome your input. I thank you for your journey.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Levac, and thanks to you, Ms. Cheskes, for coming forward with your deputation.

CANADIAN COUNCIL OF NATURAL MOTHERS

The Chair (Mr. Shafiq Qaadri): I will now offer for the third time an invitation to Erika Klein. If not, then we'll move to our final presenter of the day, and that is Ms. Karen Lynn, who is the president of the Canadian Council of Natural Mothers. Ms. Lynn, as you've seen, you have 15 minutes in which to make your deputation. I would invite you to have a seat. I would respectfully ask you to begin now.

Ms. Karen Lynn: Thank you so much. Good afternoon, everyone. I would like to briefly explain the experience of unwed mothers in Ontario post-World War II and then how this relates to adoption disclosure. With me today is my son, whom I lost to adoption when he was only eight days old in 1963. We have been happily reunited since 1999, although we regret the loss of 35 years together.

After we reunited in 1999, I became very aware that the voice of natural mothers was simply unheard. No one wanted to listen to our story and everybody seemed to know all about it. Therefore, I met a few similar women on the Internet and we established the Canadian Council of Natural Mothers. We now have members across Canada and even around the world. For some reason, we have an awful lot of American women who have joined our group.

Our mandate is simply to be the voice of mothers who lost their children to adoption. Before I get into the main part, I just want to respond to some of the things that people mentioned earlier this afternoon. First of all, I want to make it clear—I'd like to dispel a myth—that there were no promises made to mothers who surrendered their children. We were not promised privacy and we were not promised confidentiality. No one said that we would get anything out of this deal. We simply

signed—some of us signed—I signed a consent to adoption, and the deal was that I lost my parental rights—period. The contract—and anybody can read it; it's available—never said that I would get privacy or something—a synonym—out of it. It simply was not on. I understand that there were a few ill-advised social workers who did promise confidentiality, but how could they really do that? It wasn't legally done. I just wanted to clear that up.

Secondly, as Marilyn and others have mentioned, sunset clauses were introduced in New Zealand—I think it was in 1985—and it was for a 10-year period of time. What they found is that after 10 years, when people were invited to renew their vetoes, only 10% of the people did that; and every 10 years, only 10% of the people again, until eventually they've dwindled down to practically none. It's almost not even worth the effort anymore.

Both New South Wales and Western Australia removed their disclosure veto. I'm not sure of the exact date when New South Wales did it, but I know that Western Australia removed the disclosure veto in 2003.

I think that it's a good idea to conduct government searches after a few years of a disclosure veto having been placed. I think that would be an excellent idea. It would be a tremendous service that the government could offer people in the adoption community.

Back to my speech: In 1969, in Toronto, a sevenmonths-pregnant 17-year-old was literally thrown out of her home onto the front lawn by her father on the advice of the family priest. She wandered, dazed and traumatized, around town until she found shelter in a maternity home.

One sunny afternoon in 1963, a young woman walked out of a hospital in Ontario and quietly slipped under a truck, hoping to end the pain of losing her first child. Fortunately, she was rescued by the attentive truck driver, who saved her life, and rescued her spirit as well, that day.

She said, "I fell between his front tires. He skidded to a halt, jumped out of the truck, screaming Italian. He crawled under the truck, dragged me out and hugged me to him, relieved that I was unhurt. As he held me, I realized I had not experienced any compassion since I told my family I was pregnant. That is my memory of relinquishing my darling daughter."

Still another, a 16-year-old, lived for three months in a field during pregnancy because she was forbidden to go home.

I realize that these stories sound melodramatic and that they're very uncomfortable to hear. This is not the Hollywood version, as in Juno. There are thousands of real stories like these, stories of young women, some still children themselves, who suffered society's harshest punishment: the loss of a baby, accompanied by social shunning and often the loss of their own families, for the crime of being unmarried and pregnant.

We are often blamed for the loss of our babies, yet and few know this—administrators at maternity homes routinely denied us shelter unless we promised to surrender our children. When my son was born, the doctors and nurses refused to allow me to hold him. I was an unfit mother, not because I had ever hurt a child, but because I was unmarried. I was simply forbidden to mother my own child by the holders of the ethical authority of the day. This was just down the street from here, in the Toronto General Hospital.

But now, some 20 or 50 years later, when so many of us who suffered this may want to find out how our children are doing, what do we do? What do we do when those who have not had our experience insist that adoption disclosure be limited by a veto and even other

restrictions to protect us?

We, the majority, are on the flip side of the privacy argument. We do not feel protected by any restrictions on disclosure. Instead, we feel patronized, invisible, misunderstood and threatened. We feel threatened because many mothers not as fortunate as me may not be able to find out what happened to their children. They may not be able to pass on important inheritable medical information to their children, information that we didn't know when we were 17. We did nothing wrong, yet our punishment continues, and it will continue forever until we all have access to information about our children.

Yes, there are a very few among us who fear that their good names may be sullied, that their husbands may leave them if their lost children find out their names. Where is the evidence for this? In places such as some US states, England and Australia where there are no disclosure vetoes, this has not happened. These fears are unfounded. It is the overwhelming experience of hundreds of mothers whom I have known, both in my own organization, the Canadian Council of Natural Mothers, and outside the organization, across Canada and around the world, that disclosure of our information does not cause shame and familial or public scorn to rain down on our heads, as it did in the past. Reunion, if it comes, brings joy, relief and healing.

Having fully open adoption records is an essential component of mothers' and women's rights. Let us finally bring to an end the agonizing era that blamed, traumatized and humiliated Ontario women. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much for your deputation. We'll have about three min-

utes or so per side, beginning with the NDP.

Mr. Michael Prue: Thank you for your deputation. There were several groups who came forward and, in meeting Judge Belobaba's decision, asked for a limiting 10-year veto so that it could be renewed, but—

Ms. Karen Lynn: Yes, the sunset clause at the end.

Mr. Michael Prue: —sunset clause, yes. Are you in agreement or not in agreement with that?

Ms. Karen Lynn: I'm totally in agreement. I would prefer no disclosure veto but, lacking that option, definitely a sunset clause is great. It seems to have worked where it's been tried before, and I can't see the harm. I'm sure that there could be some system put in place by a competent government to ensure that people didn't slip through the cracks.

Mr. Michael Prue: So a system whereby you'd register your address, and every 10 years they'd send you a note stating the time and, "Do you want to renew it?"—sort of like my driver's licence, I guess

Ms. Karen Lynn: Yes, kind of like that, only I wish it

were every year.

Mr. Michael Prue: But whatever the time frame was, it would be done in much the same way: "The time has now come to renew your licence, your fishing licence, your veto, your whatever."

Ms. Karen Lynn: That's right. Think of it as a fishing

licence.

Mr. Michael Prue: What you're suggesting, then, is that the government adopt such a system whereby people who have a veto would be notified and invited to re-veto, if that was the desire.

Ms. Karen Lynn: Yes, I do.

Mr. Khalil Ramal: Thank you very much for your advocacy on behalf of natural mothers. I remember when you came and you gave us your thoughts on Bill 183. Thank you for coming again to talk to us about your thoughts about this bill.

I agree with you, but as you know, as a government, as elected officials, we don't have the ultimate decision sometimes. There is a higher authority, the court, that ruled against Bill 183. That's why we are back to discuss this issue. Hopefully, many people among us, especially on the authoritarian level, will have more progressive minds, will open it again and relieve you and many others across the province, across Canada, from the suffering you had to pay for no reason—just some ethical stuff happened in the past—

Ms. Karen Lynn: Thank you for recognizing that.

Mr. Khalil Ramal: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal. To the PC side?

Interjection.

The Chair (Mr. Shafiq Qaadri): Thank you.

Thank you very much for your deputation, Ms. Lynn, and for coming forward on behalf of the Canadian Council of Natural Mothers.

First of all, I have one final call. Yes, Mr. Sterling?

Mr. Norman W. Sterling: Well, maybe you want to make your final call, and then I'll—

The Chair (Mr. Shafiq Qaadri): Final call to Anazola Linton or Erika Klein. Fair enough.

Mr. Sterling.

Mr. Norman W. Sterling: Mr. Chairman, I just received the copy of the submission by the Ontario Association of Children's Aid Societies. In it, they're making the suggestion that the bill be amended to include a provision, going forward from September 1. The Ontario Association of Children's Aid Societies "recommends [that] amendments to Bill 12 include a determination of abuse provision for adoptions registered after September 1, 2008, prohibiting disclosure of information to a biological parent where an adopted person is a victim of violence, unless the adoptee waives this right of prohibition, once they are an adult."

I intend to put forward those amendments tomorrow on their behalf. I agree with their submission. I do not have those formally drafted at this time, but I will put them forward tomorrow.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Sterling. Just to remind the committee members as well as others that the amendments are to be filed with the clerk of the committee, Mr. Katch Koch, by Tuesday, April 22 at noon.

Mr. Michael Prue: If I could seek the advice of legislative research, I would like to put forward a motion along the vein of having a sunset clause as well, and I'm not sure exactly how that would be done. I don't want to get into a legal wrangle tomorrow afternoon. We've only got such a limited time. Could someone assist me in doing that?

The Chair (Mr. Shafiq Qaadri): Sure. I'll direct research to assist you in that.

If there are no further questions or comments, this committee stands adjourned for clause-by-clause hearings until tomorrow at 3:30 or after orders of the day.

Mr. Norman W. Sterling: Do we know if there are any amendments by the minister?

Mr. Khalil Ramal: Yes.

Mr. Norman W. Sterling: When are we going to get a copy of those?

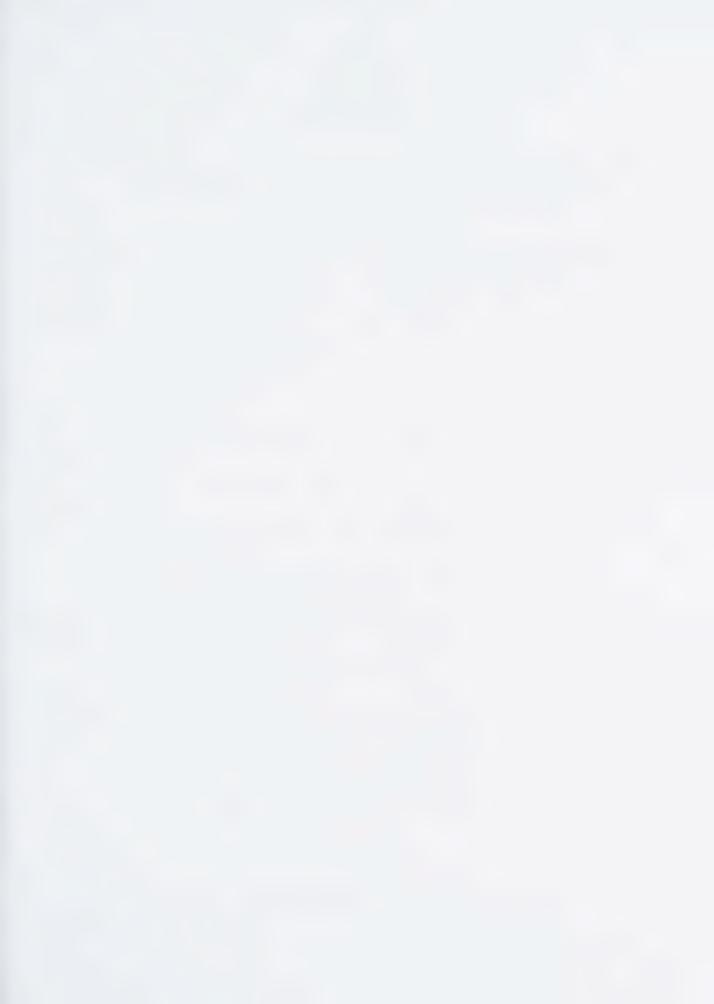
Mr. Khalil Ramal: You'll be receiving it, I guess, tomorrow.

The Clerk of the Committee (Mr. Katch Koch): It was distributed Friday, but I can get you a copy.

Mr. Norman W. Sterling: Thank you.

The Chair (Mr. Shafiq Qaadri): The committee stands adjourned.

The committee adjourned at 1711.



CONTENTS

Monday 21 April 2008

Subcommittee report	SP-29
Access to Adoption Records Act (Vital Statistics Statute Law Amendment), 2008, Bill 12, Mrs. Meilleur / Loi de 2008 sur l'accès aux dossiers d'adoption (modification de lois en ce qui concerne les statistiques de l'état civil), projet de loi 12, M ^{me} Meilleur	SP-29
Mrs. Gail Sellers	SP-29
Bastard Nation: The Adoptee Rights Organization	SP-30
Ms. Natalie Proctor Servant	
Coalition for Open Adoption Records	SP-32
Ms. Wendy Rowney	
Parent Finders	SP-34
Ms. Monica Byrne	
Mr. Stephen Forrest	SP-36
Ms. Marilyn Churley	SP-38
Ms. Joy Cheskes	SP-40
Canadian Council of Natural Mothers	SP-42
Ms. Karen Lynn	

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke–Lakeshore L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London-Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)

Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Ms. Sylvia Jones (Dufferin-Caledon PC)

Mr. Michael Prue (Beaches-East York ND)

Also taking part / Autres participants et participantes

Mr. Frank Klees (Newmarket-Aurora PC)

Mr. Norman W. Sterling (Carleton-Mississippi Mills PC)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Ms. Margaret Drent, research officer, Research and Information Services SP-5



SP-5

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Tuesday 22 April 2008

Standing Committee on Social Policy

Access to Adoption Records Act (Vital Statistics Statute Law Amendment), 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mardi 22 avril 2008

Comité permanent de la politique sociale

Loi de 2008 sur l'accès aux dossiers d'adoption (modification de lois en ce qui concerne les statistiques de l'état civil)

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE

LA POLITIQUE SOCIALE

STANDING COMMITTEE ON SOCIAL POLICY

7 22 April 2008 Mardi 22 avril 2008

Tuesday 22 April 2008

The committee met at 1542 in committee room 1.

ACCESS TO ADOPTION RECORDS ACT (VITAL STATISTICS STATUTE LAW AMENDMENT), 2008

LOI DE 2008 SUR L'ACCÈS
AUX DOSSIERS D'ADOPTION
(MODIFICATION DE LOIS
EN CE QUI CONCERNE
LES STATISTIQUES DE L'ÉTAT CIVIL)

Consideration of Bill 12, An Act to amend the Vital Statistics Act in relation to adoption information and to make consequential amendments to the Child and Family Services Act / Projet de loi 12, Loi modifiant la Loi sur les statistiques de l'état civil en ce qui a trait aux renseignements sur les adoptions et apportant des modifications corrélatives à la Loi sur les services à l'enfance et à la famille.

The Chair (Mr. Shafiq Qaadri): Ladies, gentlemen and colleagues, as you know, we're here for clause-by-clause consideration of Bill 12, An Act to amend the Vital Statistics Act in relation to adoption information and to make consequential amendments to the Child and Family Services Act.

I open the floor for any questions, comments or debate on any section of the bill. Please refer to that bill to begin.

Mr. Ramal, the floor is open for any kinds of questions, comments or reference to any section of the bill.

Mr. Khalil Ramal: First, I want to welcome every-body who's with us today, especially the privacy commissioner and many other stakeholders, and also those from the Ministry of Community and Social Services.

Mr. Chair, if you'd permit me, I would ask Peter Rusk and Brenda Lewis to come to the table. Mr. Rusk is the legal adviser for the ministry, and Brenda Lewis is a policy person in our ministry. So for any technical issues or technical problems, we want them around, if that's possible.

The Chair (Mr. Shafiq Qaadri): If that be the will of the committee, I'd invite them. Are you going to make some opening statements, or will you be on standby?

Mr. Peter Rusk: Be on standby.

The Chair (Mr. Shafiq Qaadri): Thank you.

Once again, are there any comments, questions, or debate or issues on particular sections of the bill? Or may we proceed to clause-by-clause consideration?

Mr. Khalil Ramal: I have no issues.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal. We'll begin with government motion 1.

Mr. Khalil Ramal: I move that section 1 of the bill be amended by adding the following subsection:

"(0.1) the definition of 'child and family services review board' in section 1 of the Vital Statistics Act is repealed."

This motion will repeal the definition of the Child and Family Services Review Board, or CFSRB, from the Vital Statistics Act, as the provisions relating to the CFSRB—prohibition order, reconsideration or determination of abuse—will be repealed by Bill 12. Therefore, this definition will no longer be necessary in the Vital Statistics Act.

These are technical changes, because this board, before we put in the disclosure veto, was required for some abuse mechanism, when people go and appear before this board to complain or file a complaint. We don't see this as necessary after introducing it, if this bill passes.

The Chair (Mr. Shafiq Qaadri): Before I offer the floor to Mr. Prue and Mr. Sterling in turn, just to bring to the attention of the committee, we do have the privacy commissioner with us, who would also like to make a statement.

Mr. Michael Prue: I have a question, because there is a Conservative motion later on that will necessitate this remaining in place. Are we not prejudging that the Conservative motion—if the Conservative motion passes, we need to leave this definition in, do we not?

Mr. Norman W. Sterling: Can I ask a question? As I understand it, the Child and Family Services Review Board—there's another element or a name for it under the Child and Family Services Act. Does it continue to exist?

Mr. Peter Rusk: Yes, it continues.

Mr. Norman W. Sterling: My motion refers to that, Mr. Prue, so I think that this doesn't negate my motion.

Mr. Michael Prue: I'm trying to protect you here.

Mr. Norman W. Sterling: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Are there any further considerations, debates or comments on government motion 1? Seeing none, we'll proceed to consideration.

Those in favour of government motion 1? Those opposed? I declare the motion carried.

Shall section 1, as amended, carry? Those in favour? Carried.

Seeing as there are no motions so far brought forward for sections 2 and 3, I'll invite the committee to consider sections 2 and 3 to be carried as written. Those in favour? Those opposed? I declare sections 2 and 3 carried.

We'll now move to consideration of section 4, government motion 2.

Mr. Khalil Ramal: I move that subsection 48.1(8) of the Vital Statistics Act, as set out in section 4 of the bill, be struck out and the following substituted:

"Copy of notice

"(8) Where the Registrar General gives the applicant the uncertified copies under subsection (5) or (6) or clause 7(a), he or she shall also give the applicant a copy of the notice that was submitted under subsection 48.4(3) by either or both of the birth parents, as the case may be."

This motion would strike out the version of subsection 48.1(8) found in the first and second reading version of Bill 12 and substitute another version in order to provide greater clarity and consistency to the subsections.

The new version of the proposed subsection 48.1(8) would specify that in circumstances where the Registrar General gives the adopted person copies of his or her original birth registration and adoption order, the Registrar General will also give the adopted person a copy of the no-contact notice in circumstances where the adopted person has promised not to contact the parents who submitted the notice. The change would provide consistency so that in all circumstances where the adopted person refuses to sign the no-contact agreement for the parents, the adopted person does not receive a copy of the no-contact notice.

I think from this motion it's very clear that if the adopted person refused to sign an agreement about a no-contact notice from the other side, he's not going to get the registration paper or the copy. Therefore, we brought these changes for clarity and to eliminate all the confusion about the translation of the past bill.

The Chair (Mr. Shafiq Qaadri): Are there any questions, comments, issues, debates?

Mr. Norman W. Sterling: I would hope legal counsel—either our legal counsel at the table or our legal counsel sitting across—will indicate if there's any problem, as Mr. Prue outlined before, with regard to later amendments. I take it you will warn us if they conflict.

Ms. Sibylle Filion: Oh, for sure.

Mr. Norman W. Sterling: Thank you. 1550

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Sterling. Just to be clear, our legal counsel is present.

We'll now consider government motion number 2.

Those in favour? Those opposed? Carried.

I've been advised by our clerk of the committee, Mr. Katch Koch, that PC motion 3 will be deferred for consideration under the new section 8.1. If there are no

objections, we'll move now to consideration of government motion 4.

Mr. Khalil Ramal: I move that subsection 48.2(1) of the Vital Statistics Act, as set out in section 4 of the bill, be amended by striking out "persons other than the applicant and the adopted person" and substituting "persons other than the applicant, the adopted person and a person whose name appears in the documents because of their involvement, in a professional capacity, in the adoption or birth registration."

The motion would strike out words in subsection 48.2(1) found in the first and second reading versions of Bill 12 and substitute other words in order to clarify that information about persons who are acting in their professional capacity is included in the information provided to a birth parent. For example, information regarding a person such as the doctor at the birth, the judge who issued the adoption order and the division registrar who signed the birth registration could be released if this motion carries.

I think this motion is very clear. If there are any questions, I'm happy to entertain them.

The Chair (Mr. Shafiq Qaadri): Again, the floor is open for any commentary. Seeing none, we'll consider government motion 4. Those in favour? Those opposed? Government motion 4 is carried.

We're bow considering government motion 5. Mr. Ramal.

Mr. Khalil Ramal: I move that subsections 48.2(4) and (5) of the Vital Statistics Act, as set out in section 4 of the bill, be struck out and the following substituted:

"Effective notice of preferred manner of contact

"(4) If a notice submitted under subsection 48.3(1) is in effect and sets out the manner in which the adopted person wishes to be contacted by the applicant, the Registrar General shall give the applicant a copy of the notice when the Registrar General gives the applicant the information described in subsection (1).

"Effect of notice of wish not to be contacted

"(5) If a notice submitted under subsection 48.4(1) is in effect and states that the adopted person does not wish to be contacted by the applicant, the Registrar General shall not give the information described in subsection (1) to the applicant unless the applicant agrees in writing not to contact or attempt to contact the adopted person, either directly or indirectly."

This motion would strike out the version of subsections 48.2(4) and (5) found in the first and second reading versions of Bill 12 and substitute another version of these subsections in order to clarify their intent.

The proposed new version of subsection 48.2(4) provides that the Registrar General is to give a copy of notice regarding contact preference to the birth parent or applicant. If the notice specifies the preferred manner in which that birth parent is to contact the adopted person, the proposed new version of subsection 48.3(5) provides that the Registrar General is to give a copy of a nocontact notice to the birth parent or applicant if a no-

contact notice specifies that that birth parent is not to contact the adopted person.

These changes would clarify that a birth parent should only get a copy of a notice if it applies to him or her, but not if it applies to other birth parents.

Also, I think this motion came to clarify the intent of the section.

The Chair (Mr. Shafiq Qaadri): Any questions or comments? Seeing none, we'll proceed to consideration.

Those in favour of government motion 5? Those opposed? Motion 5 carried.

Government motion 6. Mr. Ramal.

Mr. Khalil Ramal: I move that subsections 48.2(8) and (9) of the Vital Statistics Act, as set out in section 4 of the bill, be struck out and the following substituted:

"Copy of statement

- "(8) If a disclosure veto submitted by an adopted person is in effect and prohibits the disclosure of information to the applicant, the Registrar General shall:
- "(a) advise the applicant that a disclosure veto is in effect; and
- "(b) give the applicant a copy of any statement intended for the applicant that may have been included in the disclosure veto under subsection 48.5(7).

"Same

- "(9) If, at the time of the application, a disclosure veto prohibiting disclosure to the applicant has ceased to be in effect under subsection 48.5(13), the Registrar General shall,
 - "(a) advise the applicant of this fact; and
- "(b) give the applicant a copy of any statement intended for the applicant that may have been included in the disclosure veto under subsection 48.5(7)."

This motion would strike out the version of subsections 48.2(8) and (9) found in the first and the second reading versions of Bill 12 and substitute another version of these subsections in order to clarify their intent. The proposed new version of 48.2(8) clarifies that the Registrar General is only to advise the birth parents or applicant of the disclosure veto and to give to the birth parent a copy of any statement included in the disclosure veto if the disclosure veto applies to that parent. The proposed new version of 48.2(9) clarifies that if a disclosure veto has ceased to be in effect as a result of the death of the adopted person, the Registrar General is only to advise the birth parent or applicant of this fact and give a copy of any statement included in the disclosure veto if the disclosure veto applies to that birth parent. These changes would clarify that a birth parent is only to be given information with respect to a disclosure veto that applies to that birth parent but not if it applies to the other birth parent whom the veto does not pertain to.

The Chair (Mr. Shafiq Qaadri): Are there any further considerations?

Mr. Norman W. Sterling: I just have a question on (9). I assume if the Registrar General knows that the party has died and, as I understand under Bill 12, the veto disclosure is no longer valid, so the person applies, and I

read it that the Registrar General tells them that the person has died. Is that right?

- Mr. Khalil Ramal: Unless you are asking for the information. The disclosure veto does not give any information to anyone except the people whose names are on the document, whether birth parents or the adopted person. So if you ask, yes, you get the information, but the Registrar General is not going to notify anyone unless you ask for it.
- Mr. Norman W. Sterling: But let's say a child asks about the natural mother, and the mother has died. So I read in this that the Registrar General advises the fact that your natural mother has passed away, and then it says "give the applicant a copy of any statement intended for the applicant that may have been included in the disclosure veto." They give the health information. Let's say there was health information.
- **Mr. Khalil Ramal:** Yes, whatever is contained in that paper depends—
 - Mr. Norman W. Sterling: That's what that (b) is.

Mr. Khalil Ramal: Correct.

Mr. Norman W. Sterling: But it doesn't say you disclose the identity of the—

Mr. Khalil Ramal: To my knowledge, and I would ask the policy people to comment if I don't explain it very well, when you impose the disclosure veto, you state on your statement what you want disclose or not disclose. When you die, I guess the Registrar General is permitted to disclose only the information you permit him to disclose after your death.

1600

Mr. Norman W. Sterling: Can you clarify that for me?

Ms. Brenda Lewis: At time of death, the—

The Chair (Mr. Shafiq Qaadri): I would invite you to please identify yourself for the purpose of Hansard and proceed.

Ms. Brenda Lewis: Brenda Lewis, with community and social services.

When the disclosure veto is filed, it's in place until time of death. At time of death, the disclosure veto expires, so the identifying information may be released at that time along with the disclosure veto and any pertinent information that may have been filed with the disclosure veto at that time.

Mr. Khalil Ramal: Yes, whatever information you filed at that time.

Mr. Norman W. Sterling: You're just assuming—why wouldn't you say you would disclose the identifying information in this clause?

Mr. Peter Rusk: I'm Peter Rusk. This specific clause doesn't disclose the information. This specific clause just says that the disclosure veto ceases to be in effect. When that happens, in addition to disclosing that information, the Registrar General has to advise the person of the death and provide a copy of the statement that was included with the disclosure veto.

Mr. Norman W. Sterling: So then they have to make another application, I assume, to get the identifying information?

Mr. Peter Rusk: My understanding is that it would be part of the same process. They apply for the information and then the Registrar General presents them with this information if in fact the person who filed the disclosure veto is deceased.

Mr. Norman W. Sterling: It just seems awkward, the way you've done it. I would have put three things down, and then the legislation becomes clearer as to what happens when an applicant goes and finds out that the person has passed away:

(1) You passed away.

(2) Here's the identifying information.

(3) Here is the additional information filed with the veto.

Mr. Michael Prue: I just want to be clear. I think I already know the answer, but I just want it stated for the record: This applies when people die. They must die within the province of Ontario for someone to be notified. If the birth mother were to die in Alberta, Manitoba, the United States, England, Zimbabwe or anywhere else, there would be no notification process?

It must be a hard question, Mr. Chair.

Mr. Peter Rusk: As part of the regular process, the Registrar General would know of deaths that occur in Ontario, but if a death occurred elsewhere, the Registrar General would have to become aware of that death by someone filing information that was satisfactory to the Registrar General.

Mr. Michael Prue: Let's start with Canada first. What obligation does British Columbia have to notify Ontario of the death of a person who may have been born, or maybe not even born in Ontario but who gave birth in Ontario once? What obligation is there? Is there any obligation whatsoever?

Mr. Peter Rusk: I don't know of British Columbia's obligation to file information.

Mr. Michael Prue: Any? Quebec's obligations?

Mr. Peter Rusk: I don't know of other provincial obligations to file information.

Interjection.

Mr. Peter Rusk: I have been advised that there's an interprovincial protocol that if another province is aware that someone who died in their province was born in Ontario, they advise Ontario of the death.

Mr. Michael Prue: I'll use the example of Marilyn Churley. She was here yesterday. I'm sure she wouldn't mind. She was born in Labrador, the province of Newfoundland and Labrador. She gave birth in that province. She found her son eventually in Ontario. She's lived in British Columbia. I hope she lives for 100 years, but if she doesn't and dies in Quebec—and had never found her son—who would know?

We have mobility rights in this country. You can move to any province, and people do. I'm sure there's people in this room who've lived in another province. I haven't; oh, yes, I did live in Quebec for awhile. People move. Even if you were not born here, but have lived here and possibly given birth here, how would someone find out? Or I take it they just wouldn't?

Interjection: How would someone find out what?

Mr. Michael Prue: How would somebody find out that their birth mother had died so that they could access this information?

Mr. Jacob Bakan: Mr. Chair, my name is Jacob Bakan and I'm legal counsel with the Ministry of Government and Consumer Services. With your agreement, perhaps I could speak to this matter.

The Chair (Mr. Shafiq Qaadri): Please.

Mr. Jacob Bakan: The Deputy Registrar General is here. My understanding is that there are interprovincial agreements between the provinces. In the case that someone died in Canada, typically in the ordinary course of things the Deputy Registrar General would be advised that that person had died. If the person died outside of Canada, in that case there would be no automatic notification, and if the applicant happened to have evidence and maybe the applicant had separately located the person, then they could provide that evidence to the Deputy Registrar General. I understand that in many circumstances that would not be available, but in certain circumstances, if they happen to have evidence, that could be considered under the legislation on a case-bycase basis by the Registrar General or the Deputy Registrar General to determine whether in that case there was satisfactory evidence that the person had died.

Mr. Michael Prue: Let me take it outside of Canada. It still seems convoluted. It still seems very likely that many people will never find out their birth parent has died, even in Canada. What if they die outside of Canada? I would take it no one would ever be notified and that person might live their entire life without knowing that the birth mother has died and that they can now have access to the file.

Mr. Jacob Bakan: My understanding is that there's no automatic notification process. There's no agreement with other jurisdictions. The Deputy Registrar General has indicated that in some cases she might be notified by certain jurisdictions, but certainly not universally all over the world. In those cases where she didn't receive notification from another jurisdiction, it would have to be considered on a case-by-case basis, if the individual applying happened to be able to produce evidence of some sort and was aware, independently, of the fact that the person had died.

Mr. Michael Prue: But if a person is trying to access the file and thinks, "My God, my birth mother must be 90 years old, if she were still alive," she may not be alive, she may be dead. But there would be then no way of accessing the file because you'd have no way of knowing whether the person was alive or dead. Have I got it wrong, or is that right?

Mr. Jacob Bakan: No. My understanding is that under the bill there has to be evidence before the Registrar General or the Deputy Registrar General to be able to make that determination, and therefore—

Mr. Michael Prue: And if you don't know who that person is, then how could you ever have evidence?

Mr. Jacob Bakan: I have indicated the circumstances in which that evidence—

The Chair (Mr. Shafiq Qaadri): There are three requests to speak: Dr. Jaczek, Mr. Sterling and then Mr. Ramal.

Mr. Michael Prue: Okay. Thank you. I'm not finished. Go ahead; I'll come back.

The Chair (Mr. Shafiq Qaadri): I offer the floor to you, Dr. Jaczek, if you'd like it.

Ms. Helena Jaczek: Yes, thank you. I understand that the disclosure veto can also be rescinded at any time. Does this section also apply to that case? Someone changing their mind, rescinding the disclosure veto—at that point does the Registrar General advise the applicant of this fact, as in (a) and also in (b)? Do they then give the applicant a copy of the statement etc.?

Mr. Peter Rusk: No, they do not.

Ms. Helena Jaczek: They do not. So could you just explain to me for my general edification, if someone rescinds the disclosure veto, what happens?

Mr. Peter Rusk: If they rescind the disclosure veto, once the Registrar General matches that rescission with the actual file, then the disclosure veto is no longer in effect.

Ms. Helena Jaczek: And it would require an applicant to make a new application?

Mr. Peter Rusk: Yes.

1610

The Chair (Mr. Shafiq Qaadri): Mr. Sterling.

Mr. Norman W. Sterling: If somebody exercises a veto disclosure, presumably then you have an ability to contact that person. When somebody exercises an application or fills out an application or whatever, will you be asking them for a contact number or whatever?

Ms. Brenda Lewis: Are you asking whether or not when they rescind the disclosure?

Mr. Norman W. Sterling: Not rescind; when they register. They've got to register. They've got to do a positive act to have a veto. They estimate that that could be 3% to 5% of the 500,000 files there are, or whatever it is. You may have 15,000 vetoes, which isn't a big number overall. Presumably when somebody registers a veto, they're going to give you a phone number or they're going to give you an address.

What I fail to understand in the legislation—maybe you have regulatory power to do this; I don't know. But what I would like to see is, if somebody comes in and says, as Mr. Prue has pointed out, "My mother would be 90 years old at this point in time. In all likelihood she's deceased. She exercised the veto, but now I want to know whether or not she has died." Is there any obligation on the registrar to make the phone call?

Mr. Khalil Ramal: I think that violates the whole principle of the disclosure veto. Unless the birth parents open or change their minds, I think the Registrar General is not allowed to give the information to the adopted person or adult regardless.

Mr. Norman W. Sterling: That's not what I'm saying.

Mr. Khalil Ramal: I know. Let me continue. Therefore when they are deceased, or they have died, they have no mechanism for the Registrar General to provide this information. How do you know whether or not she has died if you have no mechanism to know, if they put the disclosure veto. Therefore, I guess the only person allowed to ask for information is if his or her name appears on the birth registration. Otherwise nobody is allowed to do it.

Mr. Norman W. Sterling: Look, is this tough? Maybe I think it's too simple. You have 15,000 vetoes registered. Presumably you have the names of the people who registered those vetoes and the connection to the adoptive child in some way. If the adoptee walks in and says, "I think my mom probably has passed away. I'm now 75 and my mom is probably 95 if she's still alive, and most people are not with us at that age. Registrar, as you don't seem to have a record of her death—she may have gone to another jurisdiction or she may have exercised this veto from another jurisdiction—can you make an attempt to see if she is dead?"

Mr. Michael Prue: If you're 75, you need to know.

Mr. Norman W. Sterling: Why wouldn't you put—

Mr. Jacob Bakan: Perhaps I can speak to this. My understanding is that from a practical perspective, the experience that the office of the Registrar General has had in these circumstances is that some people do provide their contact information and some people do not provide their contact information when they apply for these. Some people do not want to be contacted by anyone, presumably, and that's why they don't include any contact information.

If your question is, is there an obligation under the act for the Registrar General to follow up with individuals, the answer is no. There's no such obligation under the bill.

Mr. Norman W. Sterling: Even if there is contact information on file.

Mr. Jacob Bakan: There's no obligation under the bill for the Registrar General to make followup contact.

Mr. Norman W. Sterling: Why don't you do that? Just policy? Didn't think of it?

Ms. Brenda Lewis: The policy intent in the whole bill is to open records and allow personal control of information. It was looked at when we were introducing the disclosure veto. A person had made a choice to file that veto. It was up to them, and we gave them the option, to rescind the disclosure veto. We felt at that point that the policy had met the need of the bill while protecting privacy.

Mr. Norman W. Sterling: The whole thrust of this bill is to open as many records as possible while respecting the court's ruling and the charter privacy rights, but the bill clearly says that after the death of the person who is exercising the veto, that ends. How on earth does the other party know? There's no way to know. The only connection is through the Registrar General.

Ms. Brenda Lewis: And as indicated by my colleague, in some cases we won't know that the connection has been made, that death has occurred.

Mr. Khalil Ramal: It doesn't comply with the intent of the bill, which is intended to provide the privacy of the person. As has been mentioned, when some people put in their disclosure veto, sometimes they don't give contact information. Therefore, any spot will open a loophole in the whole bill; then we'll go back to square one, where we started.

I guess it's an obligation of the person to keep searching. If the other side—the parents—die, then the disclosure veto would die with them. Otherwise, there's no mechanism in the bill to exercise a search mechanism for either side, the birth parents or the adopted adult.

Mr. Michael Prue: I just want to be sure of the government intent here, then. A person lives their whole life till they're 70 or 75 years of age never knowing the name of their birth mother, never having met them because there's a veto, and the government's bill is to intend that if that person dies in a jurisdiction other than Ontario, they may never, as long as they live, even if they live to 100, find out who their mother was, because they died in another jurisdiction. That's the intent of your bill?

Mr. Khalil Ramal: Yes. Mr. Michael Prue: Okay.

Mr. Khalil Ramal: The bill only applies in Ontario, and then interprovincial jurisdictions can share information. It's a part of the privacy act, and we cannot violate it.

Mr. Norman W. Sterling: I think we should deal with the rest of the amendments. In the interests of disclosure and the intent of the bill—the intent of the bill is that after death people have the right to then get disclosure.

Mr. Khalil Ramal: Correct.

Mr. Norman W. Sterling: If that's what you're intending to do, then you should do everything you can to—

Mr. Michael Prue: How can you apply for a death certificate if you don't even know the person's name?

Mr. Khalil Ramal: You could apply as an adopted adult and continue to apply for more information and, with hope, the other side will supply the information. If the parents died, the disclosure veto would automatically die with the death of the person who put in the disclosure veto, so then you get the information. As has been mentioned, there are interprovincial jurisdictions that can share the information of the death. If somebody leaves the country, I guess we have no jurisdiction over that person who leaves the country.

Mr. Norman W. Sterling: I'm trying to help you out here, but it doesn't seem that—

Interjection.

Mr. Norman W. Sterling: Okay.

The Chair (Mr. Shafiq Qaadri): Mrs. Sandals.

Mrs. Liz Sandals: I'm just sitting here listening to the discussion, and I understand that everybody would like disclosure on death. I don't get a sense that anybody's

arguing with this. It's just the capacity to give that information. If the Ontario Registrar General doesn't know the information and has no reasonable way of finding it out because they've got no contact information either, I'm not sure how they can share information that they don't have and that they have no reasonable expectation of ever having.

Mr. Norman W. Sterling: But they do have information. They have contact information. They just said that in some cases they do and in some they don't. I say, some is better than none.

Mr. Khalil Ramal: But if the Registrar General knows the information, they will release the information automatically to the adult adoptees. Automatically, when the person who put the disclosure veto dies, and with the knowledge of the Registrar General, the whole disclosure veto would be nil. Then they would release the information to the person who's asking for it, especially if his or her name appears on the birth registration. That's why there'd be no information available to the Registrar General in order to provide to anyone, unless he or she knows about the deceased person. So that's why we'd be violating the whole structure of the bill if we open it up to an assumption.

1620

Mr. Norman W. Sterling: That's not the argument. In terms of the 15,000 vetoes that will be registered—I'm eyeballing that number—14,000 of them will be people who live in Ontario and whose deaths will become known to the Registrar General. What Mr. Prue and I are concerned about is the other 1,000. Let's say that of those 1,000, the Registrar General has contact information on 500 of them. Let's say that half of them provide it—500. Why shouldn't the applicant be able to say to the Registrar General, "My mom has to be 80-plus by now"—or whatever the number is you want to fix; "Could you please make an attempt to contact her or people who know her to determine whether she's still alive or not?"

Mr. Khalil Ramal: But see, it would be going against the direction of the intent of the bill.

Mr. Norman W. Sterling: No, it isn't.

Mr. Khalil Ramal: It is.

Mr. Norman W. Sterling: It's totally in line. The person—

Mr. Khalil Ramal: No. Mr. Sterling, Mr. Prue, either you go with a bill for privacy and a disclosure veto or not. If you want to give the authority to the—

Mr. Norman W. Sterling: This is not a spin contest. We're talking about real facts and what happens. The intent of your bill is that when somebody dies, it opens the records. All we're saying is that the poor person who wants to get the information has no way of knowing whether the person has died or not died. The only person who has contact is the Registrar General.

You're affecting probably fewer than 1,000 files and saying to them, "If somebody comes in and asks for information as to whether the veto is still in place, could

you please try to make a contact to see if the person who exercised the veto is alive?"

Mr. Khalil Ramal: According to the bill and to the disclosure veto act, the Registrar General is not allowed to give any information without any identification and assurance of whether that person died or is deceased. Therefore, he cannot, or she cannot, provide any information—

Mr. Norman W. Sterling: I'm not asking that you give any information to the applicant at all. All I'm saying is, have the Registrar General make the phone call and find out whether the person's dead or alive. If the person is dead, then the Registrar General satisfies himself that the person is dead and then he can release the information.

Mr. Khalil Ramal: Yes, release the information if he knows or she knows that the person died. This is automatically included in the bill. It is. Yes.

Mr. Michael Prue: I don't think you're getting what we're trying to say. I'll make something right up here on the spot.

A person of Italian descent gives birth and lives in the province of Ontario while giving birth and then subsequently returns to Italy, where she lives to the ripe old age of 90 and she dies. They would never know, in the province of Ontario, that she went back to Italy or that she died in Italy, but there may be a contact. So if they phone up the contact and they talk to somebody in the household: "Is Maria"—I don't know; pick a name— "still alive? Is she still at that residence?" and the guy says: "No, she died in Italy a couple of years ago," then they can start to make the necessary calls to confirm that she has died. That's what we're trying to find out: that that person who is 70 years of age or something will know that they can then apply for their birth records, having the registrar confirm, through a couple of phone calls, that the person is dead. I don't see any great difficulty in this.

Mr. Khalil Ramal: The responsibility of the Registrar General—if the information is available to him or to her—is to provide it to the other side if they apply for the information. Otherwise—

Mr. Michael Prue: How do they apply when they don't even know the name? "My mother's 90 years old. She must be dead by now. I don't know what her name was." How do they apply for a death certificate? That's what I don't understand in your statement. How do they apply? If I apply for a death certificate for someone whose name I don't know, they're going to send me away pretty fast. I would too.

Ms. Brenda Lewis: Brenda Lewis from Community and Social Services.

One thing that we were trying to balance when we were developing the policy in the bill was privacy for all parties. In the event that the government starts contacting people, it does heighten the risk to privacy. If a person has filed a disclosure veto, we're respecting their personal right to their privacy. If we start contacting people and someone else picks up the phone, for example, and

you say, "I'm trying to find out if this person is dead or still alive," it could raise the questions, "Why are you calling? Who is calling? You're going to have to identify yourself." It could start infringing on the privacy of the individual who has already registered a disclosure veto.

The practice that we currently have in place is not inconsistent with other processes that the Ontario Registrar General currently uses in matching birth certificates and death.

Mr. Norman W. Sterling: You do that now in our current adoption registry. You phone people up, out of the blue, and you say, "Do you want a match?" You've been doing that since 1979 and now you're objecting to doing this for probably 50 people a year? Do you put an age limitation on it of some sort?

Ms. Brenda Lewis: The adoption disclosure registry that we put in place under the previous legislation is a matching service. All people on that registry have already voluntarily placed their information on the registry, so it's already implied consent.

Mr. Norman W. Sterling: Okay, I give up.

The Chair (Mr. Shafiq Qaadri): Mr. Prue, any further comments or questions? The government side? No? Fine. We'll now move to consideration of government motion 6.

Those in favour? Those opposed? Motion carried.

For similar reasons to PC motion 3, now with PC motion 7, I'll postpone its consideration to the enabling section, section 8.1, and also postpone consideration of this amended section 3.

I will now move to consideration as a group, having received to date no further amendments to sections 5, 6 and 7, inclusive. If there be no amendments being brought forward right now, we'll consider that as a group. Those in favour of—yes, Mr. Sterling?

Mr. Norman W. Sterling: Just a minute: You don't want to stand this down to have another look at it—the argument we brought up? Okay, that's fine. Go ahead.

The Chair (Mr. Shafiq Qaadri): We'll now move to consideration of sections 5, 6 and 7, inclusive. Those in favour of sections 5, 6 and 7? Those opposed? Sections 5, 6 and 7 carry.

We'll now move to consideration of section 8, NDP motion 8.

Mr. Michael Prue: I move that section 48.5 of the Vital Statistics Act, as set out in section 8 of the bill, be amended by adding the following subsections:

"Expiry of disclosure veto

"(12.1) A disclosure veto registered under this section shall expire on the 10th anniversary of the day it comes into effect.

"Renewal of disclosure veto

"(12.2) A person who submitted a disclosure veto under subsection (2) or (5) may submit to the Registrar General a renewal of the disclosure veto at any time during the year prior to its expiry and subsections (7), (11), (12), (12.1), (13) and (14) apply with necessary modifications to the renewal.

"When renewal in effect

"(12.3) A renewal of a disclosure veto comes into effect upon the expiry of the previous disclosure veto."

If I may explain the rationale for this: We heard five deputants yesterday speak, including Bastard Nation: The Adoptee Rights Organization, the Coalition for Open Adoption Records, Parent Finders, Marilyn Churley and the Canadian Council of Natural Mothers, and they all recommend that there be some kind of time frame attached to the disclosure veto. Part of the rationale that they made was in terms of what we just debated in the previous motion. What do you do when you cannot confirm deaths? What do you do with those small number of people who may die in foreign jurisdictions or may fall through the cracks, either in Ontario or by being deceased in a jurisdiction with whom we have some kind of protocol, whether it be in Canada or in the United States?

What this is intended to do is to have a veto in effect for 10 years, which I believe will satisfy the requirements of the Belobaba decision. It is renewable, so that any person can renew it—they can renew it every 10 years—but it would also make it very possible, where a person does not renew it due to death in a foreign jurisdiction, that it can be opened. The registrar may make every effort in the year before to send out the information to the last known address or to attempt to contact the people to see whether they want to keep the veto in effect, but if they decide not to have the veto in effect, it would render it moot.

1630

I'm suggesting that this is what was done in some parts of Australia, and I believe New Zealand, for at least the first 10-year period to satisfy their privacy concerns. We saw in those jurisdictions that only a limited number of people sought to do it in the first place, but we also saw that in those jurisdictions where people died in foreign jurisdictions, the records could be unsealed.

I'm trying to be fair here to both groups. I'm trying to be fair to birth parents who do not want to be disclosed and children who do not want their birth parents to contact them. To get back to what the Conservatives are going to put in later from the children's aid society, which I think is a good motion, it allows for it to be continuing provided there is a continuing will upon the person. It will make it very easy then for people, if it is not renewed, to determine whether their birth parents are still alive or whether their birth parents no longer wish to have the veto in effect.

I am just a little bit antsy about having this stained mark for all time on a piece of paper, the stained mark being a signature, when attitudes could change, when people may not think about it or when people may be deceased. If we're truly trying to make this open and protect at the same time, it is my view that having an expiry date, as they did in other jurisdictions, is a far better way than to have it done for all time.

I'm asking the committee to consider this because I do believe it meets the test of what Judge Belobaba had to say, and it still allows people, if they wish, every 10 years for 50 years or more to keep it sealed, to do so. But

it would allow, in the case of people becoming deceased or moving to other jurisdictions or any number of factors, to have an open adoption record, which I think was the intent of the Legislature and is still the intent of the Legislature.

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments?

Mr. Norman W. Sterling: I was talking to the privacy commissioner when I came out of the meeting, and it was this particular motion that she would like to have some comment on. I think it's only fair that she be given that opportunity, given that this wasn't part of the bill and part of our proceedings before we had public hearings yesterday. She didn't see a need to come in front of the committee at that time, but gave us a written brief. I guess I'm intervening and asking on her behalf whether she could have five minutes of our time to put her views on this particular issue.

The Chair (Mr. Shafiq Qaadri): Mr. Sterling has asked the privacy commissioner, who is with us, to come forward to testify. I need unanimous consent for that to take place. Do I have unanimous consent for that?

Mr. Khalil Ramal: Agreed.

The Chair (Mr. Shafiq Qaadri): Therefore, I would invite the privacy commissioner, Ms. Cavoukian, to please come forward.

Dr. Ann Cavoukian: Thank you very much, Mr. Chair, ladies and gentlemen of the committee. I apologize for this impromptu appearance. It was truly unexpected, but I learned of this motion just earlier today and I felt the need to comment. I apologize, Mr. Prue, but I strongly object to this motion for the following reasons.

The intent of filing a disclosure veto is to protect information, to protect the identity of whoever is filing the disclosure veto. That's very clear. Having that renewable after 10 years places a requirement for a positive action to take place on the part of that individual. These individuals may be very elderly by the time that time period arises.

In the privacy literature there's a finding that the default rules. What that means is, whatever the default action is, that is going to be the action that prevails. So if you have a disclosure veto in place but it must be renewed in 10 years, rest assured that people are either going to forget, they're going to become elderly and forget for other reasons which plague us all—there are going to be many reasons why they may overlook the need to repeat that action. I assure you that people who file a disclosure veto don't take this lightly.

As you know, when I appeared before the committee in 2005, I believe, I spoke to you of the many letters and e-mails and communications I had received from individuals who wanted their privacy protected and wanted the ability to file disclosure vetoes. They take this very seriously. I think an expectation of having them have a system in place that they're going to BF this, bring it forward in 10 years and know that they have to repeat this is too strong an expectation. It also flies in the face of the intent of the disclosure veto, which is one of keeping

information contained and protected. That is the wish of these individuals. I submit to you that there was no question in Judge Belobaba's mind that there were any restrictions around the extension of privacy to these individuals. He didn't say, "Place some limitations around it," the conditions around which the disclosure veto may be functional, because it's going to be, first of all, a small percentage of people who exercise the disclosure veto, as we've seen in other jurisdictions.

The fact that very few people renewed the disclosure veto in the jurisdictions, as Mr. Prue mentioned, comes as no surprise because, once again, the default rules. It's like negative billing. You forget to take an action, and whatever the default is, which would be non-renewability of the disclosure veto, that action would prevail. Expecting a positive action to be taken on the part, especially, of increasingly elderly people is too high an expectation even if they were younger, but clearly there can be devastating impacts of the absence of that action being taken by someone who might be in their seventies and eighties. But, rest assured, the damage that could arise by their failing to do so could be enormous. At this time in their life when they should be enjoying, hopefully, a care-free life and enjoying their children and grandchildren, this is the one piece of information they have been so desperately trying to protect from their family, for their reasons. It's not our business to infer the reasons. So I'm asking you not to allow this motion to carry. I think it will have devastating consequences.

I personally don't believe that Judge Belobaba would even have considered this. He talked about the rights of individuals, who in this case are in the minority, being as important as those of others who, rightfully, want to gain access. This was the balance that he proposed.

So I thank you very much for allowing me to speak. I know it was unexpected. I'm very grateful for that. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Cavoukian, for your presence and testimony. I would once again open the floor for any further questions or comments. We'll have Mr. Prue and then Mr. Ramal.

Mr. Michael Prue: I tried to read the Belobaba decision when it came out—not recently. I don't remember this issue being canvassed within the four corners of the debate, about having a renewable veto. I don't remember it being canvassed or anybody talking about it, or talking about the Australian or New Zealand experience.

Dr. Ann Cavoukian: Precisely, Mr. Prue. It wasn't canvassed because the expectation was that the decision is made on the basis of someone turning their mind to whether they want the information protected or not, their privacy protected or not. Once the decision is made, the expectation was that that decision would prevail.

If there had been any contemplation that there should be restrictions placed on the decisions, such as a renewability option, Judge Belobaba, who reviewed everything associated with this, would have addressed it. He did not. He went to great lengths to say that the bill, as it was introduced, absent a disclosure veto, flew in the face of privacy. He in fact strengthened privacy rights in his decision by elevating it to a different level than had existed before. The government did not appeal his decision, so that is the court ruling; that is what stands. It's a very strong position supporting the privacy rights of these individuals.

Mr. Michael Prue: You were also in the room and you heard the previous debate around someone of 70 or 75 years of age. Assuming that his parents, or particularly the birth mother, must now be deceased, do we just tell them, "Go home and forget it. That's life"?

Dr. Ann Cavoukian: I think if you want to address that issue, which I understand you do, then you address it in that context, not by placing restrictions on the disclosure veto which extend to people who are living. I'm speaking for people who are alive, and I want to protect and uphold their wishes. So I think it's another instrument you need if you want to deal with those who are deceased.

Mr. Michael Prue: Because that was the intent of this instrument, so that people—we would know then if they were dead because it wasn't renewed.

Dr. Ann Cavoukian: I appreciate that, and I don't mean any disrespect, but I think it's a backdoor approach to how to deal with that issue. If you want to deal with that issue, which I understand you do, then I think you have to find a vehicle that addresses that issue, as opposed to this way, which will touch the lives of people who are alive and will restrict their privacy. That's the only part I'm objecting to.

Mr. Michael Prue: Just one last question: As the privacy commissioner, you would not object if we could find another instrument, an instrument that allowed the Registrar General to investigate beyond a certain age, say 80 or 85 years of age, of the birth mother or birth parents, that someone could come in and say, "I don't know what their name is, but I must assume there is a strong likelihood that they'll be deceased. Could you check into that?" You wouldn't have any difficulty that would be an invasion of privacy if they merely confirmed yes or no that they had found information of their being deceased?

Dr. Ann Cavoukian: Mr. Prue-Mr. Khalil Ramal: Point of order.

The Chair (Mr. Shafiq Qaadri): Mr. Ramal on a point of order, if it is a point of order.

Mr. Khalil Ramal: The privacy commissioner had been asked to comment on that specific point. I think she made her deputation. I guess it's unfair to ask her to comment about different issues.

Mr. Michael Prue: It's my last question. I mean, if vou want to shut down the debate, go ahead.

Mr. Khalil Ramal: No, no. I'm not—

The Chair (Mr. Shafiq Qaadri): Mr. Ramal, I don't think, as Chair, I would have jurisdiction over her remarks, as we have invited her to speak before the committee. I don't think I can get into the subject matter control. I'll have to disallow that point of order and I would invite Mr. Prue and Dr. Cavoukian to continue.

Dr. Ann Cavoukian: Thank you.

Mr. Michael Prue: Really, we're trying to be open, especially at the point where the birth parent or parents die. At that point, the records are supposed to be unsealed. I'm thinking about the hundreds or maybe thousands of people whose parent or parents may die in another jurisdiction and for the help of the Ontario government to determine that. That's what I'm trying to do.

Dr. Ann Cavoukian: Mr. Prue, I'm going to be really honest with you. I would like to turn my mind to that question because I'm not just going to agree with you and I'm not going to disagree with you either, because I truly have not weighed how one would do that. There is possibly a privacy-protective way of doing it and I would like to have an opportunity to consider how that would be conducted in a very fair and balanced way to all parties. I'm not ruling it out. I would consider finding an instrument, looking for a way to do that—a procedure or a process—but I'm not going to just agree right now because I haven't turned my mind to it.

Mr. Michael Prue: Well, of course, but you do agree to turn your mind to it?

Dr. Ann Cavoukian: I would consider it.

Mr. Michael Prue: All right. So if I were to write you a letter after this committee has deliberated, you would turn your mind to it?

Dr. Ann Cavoukian: I would turn my mind to it.

Mr. Michael Prue: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. Now we have Mr. Ramal, Mr. Sterling, Mrs. Sandals. If they all would like to speak, I will maintain that order or you may cede the floor. Mr. Ramal.

Mr. Khalil Ramal: Thank you, Mr. Chair. I want to say we are against this motion for two different reasons. First, because this motion would contradict the statute of the bill, in which the bill asks for expiration of the disclosure veto when a death occurs. Otherwise, the disclosure veto would be available to either side. Therefore, I think it conflicts with the statute of the bill.

Secondly, as the privacy commissioner mentioned, it would violate the privacy of the people who put the disclosure veto in place. As she mentioned, maybe by mistake, when there is expiration of that disclosure veto, the Registrar General sends a letter to that person. It might be that the person is not at home at that time and then somebody opens the letter and then they will ask questions and violate the privacy, which is the intent of the bill.

That's why, for both of those reasons, we will be against this motion.

Mr. Norman W. Sterling: All I'm going to say is, having read the decision several times, it's very clear to me that the judge was unequivocal about the right of the individual to the veto. My concern is that this bill has already been mucked up once. The government didn't listen to what I consider was good advice at the time. I'm just concerned about the constitutionality of this and whether or not this would infringe the charter. I just think, in fairness to the people who have been waiting for

this bill for so long, to have anything that hedges on this is probably unwise.

Mrs. Liz Sandals: Actually somewhat similar comments. Thank you to Ms. Cavoukian for her remarks. It seems to me that if you're going to have renewal notices on disclosures, you run the risk that the disclosure notice, in and of itself, will get into the wrong hands and create questions from people and therefore you destroy privacy.

It seems to me that in this pursuit of "Are you still alive?" the "Are you still alive?" letter could have a similar effect as the "Do you want to renew the disclosure veto?" letter and runs into somewhat similar problems in terms of protection of privacy, which we're now trying to bring the bill in line with. Listening to the two debates, those are just some observations.

The Chair (Mr. Shafiq Qaadri): Thank you, Mrs. Sandals.

If there's no further consideration on NDP motion 8, we'll now proceed to its consideration.

Those in favour of NDP motion 8? Those opposed? I declare the motion lost.

I will now ask for consideration of section 8. Shall section 8 carry? Those in favour, if any? Those opposed? I declare section 8 carried.

I will now proceed to consider the new section 8.1, the enabling section, and begin with PC motion 9, and subsequently PC motions 3 and 7, which, as you will recall, were deferred from section 4.

PC motion 9: Mr. Sterling.

Mr. Norman W. Sterling: This is going to be a long motion. Just before I read this motion, I'd really like to thank legislative counsel for acting so quickly in putting this together. Thanks very much. I phoned legislative counsel at 5 o'clock yesterday afternoon and she has been able to put this together. You've done great work.

I move that the bill be amended by adding the following section:

"8.1 The act is amended by adding the following sections:

"Prohibition against disclosure where adopted person a victim of abuse

"Application

"48.5.1(1) This section applies to an adopted person and to the birth parents of an adopted person only if the registered adoption order relating to the adopted person was made on or after September 1, 2008.

"Definitions

"(2) In this section,

""Child and Family Services Review Board" means the Child and Family Services Review Board continued under part IX of the Child and Family Services Act;

""children's aid society" means a society as defined in subsection 3(1) of the Child and Family Services Act;

""designated custodian" means a person designated under subsection 162.1(1) of the Child and Family Services Act to act as a custodian of information that relates to adoptions.

"Request by Registrar General

"(3) Upon receiving an application under subsection 48.2(1) from a birth parent of an adopted person, the Registrar General shall ask a designated custodian to notify him or her whether, by virtue of this section, the Registrar General is prohibited from giving the information described in subsection 48.2(1) to the birth parent.

"Exception

"(4) Subsection (3) does not apply if a notice of waiver has been registered by the adopted person under subsection 48.5.2(1) and is in effect.

"Determination re method of adoption

"(5) The designated custodian shall determine whether the adopted person was placed for adoption by a children's aid society.

"Request for determination by local director

"(6) If the adopted person was placed for adoption by a children's aid society, the designated custodian shall ask the local director of the society to make a determination under subsection (8) and to give written notice of the determination to the designated custodian.

"Notice to Registrar General

"(7) If the adopted person was not placed for adoption by a children's aid society, the designated custodian shall give written notice to the Registrar General that the Registrar General is not prohibited, by virtue of this section, from giving the information described in subsection 48.2(1) to the birth parent.

"Determination by local director

"(8) Upon the request of the designated custodian, the local director shall determine whether, in his or her opinion, based upon information in the files of the children's aid society, the adopted person was a victim of abuse by the birth parent.

"Same

"(9) The determination must be made in accordance with the regulations.

"Notice to Registrar General, no abuse

"(10) If the local director notifies the designated custodian that, in his or her opinion, the adopted person was not a victim of abuse by the birth parent, the designated custodian shall give written notice to the Registrar General that the Registrar General is not prohibited, by virtue of this section, from giving the information described in subsection 48.2(1) to the birth parent.

1650

"Same, abuse

"(11) If the local director notifies the designated custodian that, in his or her opinion, the adopted person was a victim of abuse by the birth parent, the designated custodian shall give written notice to the Registrar General that the Registrar General is prohibited, by virtue of this section, from giving the information described in subsection 48.2(1) to the birth parent.

"Application for reconsideration

"(12) The birth parent may apply to the Child and Family Services Review Board in accordance with the regulations for reconsideration of the determination made by the local director.

"Reconsideration

"(13) The board may substitute its judgment for that of the local director and may affirm the determination made by the local director or rescind it.

"Same

"(14) The board shall ensure that the local director has an opportunity to be heard.

"Procedural matters, etc.

"(15) The Statutory Powers Procedure Act does not apply with respect to the application, and the board shall decide the application in the absence of the public.

"Notice to Registrar General

"(16) If the board rescinds the determination made by the local director, the board shall notify the designated custodian that, in the opinion of the board, the adopted person was not a victim of abuse by the birth parent, and the designated custodian shall give written notice to the Registrar General that the previous notice to the Registrar General is rescinded.

"Finality of order, etc.

"(17) An order or decision of the board under this section is not subject to appeal or review by any court.

"Confidentiality of board records

"(18) The board file respecting an application shall be sealed and is not open for inspection by any person.

"Information for birth parent, adopted person

"(19) If the local director determines that, in his or her opinion, the adopted person was a victim of abuse by the birth parent, the local director shall, upon request, give the birth parent or the adopted person the information that the local director considered in making the determination, with the exception of information about persons other than the birth parent or the adopted person, as the case may be.

"Administration

"(20) Subsections 2(2) to (4) do not apply to notices given to the Registrar General under this section.

"Notice of waiver by adopted person

"48.5.2(1) Upon application, an adopted person who is at least 18 years old may register a notice that he or she waives the protection of any prohibition under section 48.5.1 against giving the information described in subsection 48.2(1) to his or her birth parent.

"Same

"(2) A notice described in subsection (1) shall not be registered until the applicant produces evidence satisfactory to the Registrar General of the applicant's age.

"When notice is in effect

"(3) A notice is registered and in effect when the Registrar General has matched it with the original registration, if any, of the adopted person's birth or, if there is no original registration, when the Registrar General has matched it with the registered adoption order.

"Withdrawal of notice

"(4) Upon application, the adopted person may withdraw the notice.

"When withdrawal takes effect

"(5) If a notice is withdrawn, the notice ceases to be in effect when the Registrar General has matched the application for withdrawal with the notice itself.

"Administration

(6) Subsections 2(2) to (4) do not apply to notices registered under this section."

The Chair (Mr. Shafiq Qaadri): Thank you, Mr.

Sterling. Any questions or comments?

Mr. Norman W. Sterling: Perhaps I can explain this. Basically, this is what was in Bill 183, which was the previous adoption bill that was introduced by this government. These sections, the first of which sets up the process, were put in place to try to help—if you were adopted on August 31, you're going to have an automatic right to a veto; if you were adopted on September 1, you don't have any right to veto. That's basically the rights we're creating under this legislation. My understanding is that this process, this idea of protecting children who are severely abused by their natural parent or parents would—and, as we know, the children's aid society would like this same section included in this act—create a very limited right to a limited number of adoptees who find themselves in a peculiar situation.

Here on September 1, we are creating rights for everybody in our society to get all of the records going forward. Therefore, we are creating a right for an abusive parent to get, at the age of 19, the rights to find out the adoptive name of their child, who was taken away from them by the Children's Aid Society because of a serious problem of neglect, physical abuse, sexual abuse and all those terrible things that we don't like to think about but do happen, unfortunately, in our society.

This bill creates, on the one hand, a right for an abusive parent to find out the adoptive name of this particular child when he or she reaches 19. Often there's serious violence involved with these cases, as told to us in the brief of the Children's Aid Society. When you create rights, in my view, you create obligations and you create problems with regard to other people in society. When I'm weighing the right that we are giving to an abusive parent to find out the adoptive name of a child whom they treated with violence—and this would only happen in very, very severe cases—who's more important in this particular game? Not game; I mean in this serious issue. I believe that you have got to err on the side of the child, if there's any erring.

My section here that I introduced allows—it's only a one-way stop. It doesn't stop the child from finding out who the parents were, if that's what the child wants. The child is the victim. The perpetrator is the one we're giving the rights to. Who knows what these perpetrators might do in terms of these children that were taken away from them? They're not very nice people. A lot of them would have been convicted of criminal offences. I don't understand why we don't allow this kind of protection to a very, very few number of people. In essence, what the government is saying is that they are favouring the abuser rather than the victim. That's the bottom line of what's happening here, by pulling this section out of Bill 183

and not putting it into Bill 12. We had this debate on Bill 12 and it was put in the bill because this came to light. To say that a 19-year-old young woman is an adult and she can do and make her own decisions and all that—I'll tell you, these people who we're talking about are nasty, nasty individuals. I don't believe that they should be given the same rights as other natural parents do have. I just think that in this case we have to err on the side of the children who have been abused.

So that's basically the thrust of this motion: setting up the process. You'll notice there's an appeal mechanism, that at the age of 19, if the abusive parents want to question the decision that was originally made, they can go to the review board. They can have a hearing. They can go through it all. I just can't understand the government pulling this protection for this very, very small number of individuals who are adopted.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Sterling. Mr. Ramal.

Mr. Khalil Ramal: I'm going to vote against this motion for many different reasons. First, we're not talking about children, we're talking about adults. As you know, the children would be protected. The adopted adult cannot ask for information until he or she reaches the age of 18, and the birth parents cannot ask for information until that person reaches the age of 19. I think you asked this question of the minister this afternoon in question period and I'm going to give you the same answer: I think we'll treat the adults as adults. We don't treat them differently than that, because they have responsibilities. They can vote, they can drive, they can then make their own decisions. Therefore, they should be eligible to decide who they can contact or not contact, because I think the age of eligibility in Ontario gives them the right to decide and determine if they want to contact their birth parents or not.

I believe there is a penalty in place if they decide not to be contacted by their birth parents due to many different circumstances. There's a penalty in place. It would be \$50,000 for individuals and almost \$250,000 for a corporation. All these mechanisms are in place. This, if we accept your motion, will contradict the whole stature of the bill, because the bill asks for openness and disclosure of information when there's information that's applicable and allowed according to the law and according to the bill.

I think when we start to make exceptions to certain brackets, it would violate the whole essence and intent of the bill. Therefore, when the person becomes an adult, this bill will come into effect and the adult will have a right to ask for a no-contact notice. And there's a penalty in place to protect that person, whether they are contacted directly or indirectly, in violation of the whole law.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal. Ms. Jones, then Mr. Prue, then Mr. Sterling.

Ms. Sylvia Jones: Mr. Sterling's motion still allows the birth child to get the contact information if they so choose. As is pointed out in this amendment, it is a one-

way block. What it stops or prevents is an individual who is already abused—passing on that information to allow that contact to begin again at age 19. I'm disappointed to hear that you're going to vote against it because I think it is protection for the individual who's already had to deal with enough in their life.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Prue.

Mr. Michael Prue: I have a statement, but also some questions. It appears to me from reading this—and we've only had the copy since today—that the parent may apply for a request of determination to the local director and then has the right of appeal to the Child and Family Services Review Board. But the determination by that board is final, it is not appealable, and it does not appear to me anywhere in the body here that the board has jurisdiction more than once to hear it. I am mindful that some parents, a few years after the event—and not all children are adopted when they are babies; some of them are 12 or 13 years old when the abuse takes place, so it would be fairly fresh. But I'm worried that 30, 40 or 50 years may go by and a person could be completely rehabilitated. If they've blown their one chance, I'm not sure whether they'd have a second option, because my reading of this says that the decision is final and it doesn't appear that another application can be made. If it can, that would assuage some of my fears. Perhaps before I speak further, the mover can explain to me, is this a one-time shot? If you lose before the review board, that's it forever, or can a person make a subsequent one, even if there's a time frame of 10 years later? Even somebody in jail, going before the parole board, gets an opportunity every couple of years to give it their shot. Would a person have another opportunity?

Mr. Norman W. Sterling: I want to answer the question. If it isn't in the amendment, I have no problem with giving a reconsideration every so often. We've heard one of the Liberal members say that they're going to vote it down, so I don't want to put legislative counsel to work with regard to doing it. But I understand your concern and I have no problem allowing for application every so often in terms of doing it. Does it allow for more than one hearing? Perhaps legislative counsel can help me on that.

Ms. Sibylle Filion: I think that the provision doesn't specifically allow for it. If you wanted to do that, the best approach would be to write it in specifically. Right now, it looks like it's a one-shot deal.

Mr. Norman W. Sterling: I would amend the motion to allow that to be taken into consideration.

Mr. Michael Prue: Given that explanation, that would certainly make me feel more comfortable. I do understand why this motion is being brought forward. Having been both on the Children's Aid Society of Metropolitan Toronto and on the child abuse committee of the city of Toronto, I'm fully aware of some of the horrendous things that happen to children. I'm also aware that children, notwithstanding that, may want to be reunited with

their parents at some subsequent date, and this would allow for that.

I'm also aware—and I have seen evidence of this—that people who have been abusers, through counselling, advice, psychiatrists, psychologists, jail, many factors, have rehabilitated themselves to the point that they're no longer a danger to themselves or others, particularly their children. I would hate to stand in the way of that reunification if a person subsequently, through help, meets the norms and can and should be reunited with their birth children.

Given the explanation that Mr. Sterling has given, and if there was an opportunity to reapply, even if it was only every five years, I would support the motion. But I would not support it if it was a one-shot deal because I think that's too final.

Mr. Norman W. Sterling: Perhaps legal counsel could convey what you conveyed to me a few moments ago, that it was her opinion that under this particular amendment, the regulations could include that opportunity to appeal every so often.

Ms. Sibylle Filion: I'm looking at subsection (12) in particular, which is the provision that deals with the reconsideration, and it says, "The birth parent may apply to the CFSRB in accordance with the regulations for reconsideration of the determination." So your regs could say every five years or every 10 years. You could allow for that in regulation.

Mr. Norman W. Sterling: Thank you.

The Chair (Mr. Shafiq Qaadri): Just to be clear, to bring some closure to this particular aspect, Mr. Prue, the committee needs to know, are you submitting a written amendment to Mr. Sterling's amendment?

Mr. Michael Prue: Mr. Sterling offered to amend his own motion, which I was going to accept, but if it's required that someone else do it, I would be prepared to do it.

Mr. Norman W. Sterling: I think what legislative counsel is telling me is that it's not necessary to do that.

The Chair (Mr. Shafiq Qaadri): We just need to be clear procedurally on that. That's fine.

Mr. Norman W. Sterling: If I could respond to Mr. Ramal, I don't understand you guys. Why are you taking the position that a serious abuser, a criminal, who beats up their kids, who sexually assaults them, sometimes rapes them, and you're not providing that young girl when she reaches 19 the ability to keep those parents away? You're saying "no contact." Well, here's what children's aid societies say:

"While there is no quantitative evidence which speaks to the success of no-contact notice provisions, there is anecdotal evidence that breaches of no-contact notices are more likely to occur in cases where an adoption was not voluntary"—and these aren't voluntary adoptions; the kids are taken away—"and is a result of a child protection apprehension. There is concern that breaches in no-contact notices may be under-reported, giving the government a false sense of safety. For an adoptee where the biological parent did not voluntarily relinquish them for

adoption, a no-contact notice, regardless of penalty, is not sufficient nor prudent, when this biological parent has a demonstrated history of severe violence against the adoptee."

1710

I don't understand. Where are your hearts? This is not kids' stuff. This is real protection for a young woman who turns 19, who's been raped by her natural father, and you want to give her adoptive name to that—you're creating the right, in this legislation, to give that rapist the adoptive name of his daughter whom he's violently assaulted. I don't understand you guys. If you can't think for yourself, then—I'm sorry, I'm upset, but I'll tell you, if you don't pass this, I'm going to make you wear it. I'll make you wear it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Sterling, Mr. Ramal.

Mr. Khalil Ramal: I still haven't changed my mind about your explanation, because we strongly believe in individual rights, and this bill, or another bill, shouldn't take the rights away from any individual in the province of Ontario. I believe that we're talking about adults; we're not talking about kids here. If you give the right to the adult to vote, to make a very important decision concerning the province of Ontario, I guess they have a right to make a decision about their own life. I think that's what we're talking about here; we're talking about adults—

Mr. Norman W. Sterling: The 19-year-old doesn't get a choice. They can't keep their name—

Mr. Khalil Ramal: Sir, you're talking about adults. When a person becomes an adult, that adult has a right, according to the law in the province of Ontario, in Canada, to express herself or himself the way they want to, and they have a right to know about their personal identity. You have no right—you and I, or anyone in the province of Ontario—to prohibit them from learning their own information about their own history. Therefore, we are against it.

Mr. Norman W. Sterling: We're not blocking her; we're blocking the rapist from getting the information. She can find out who the natural parents are; we're saying that's okay. It's a one-way block, and the block is against the rapist.

Mr. Khalil Ramal: Sir, we have a—

Mr. Norman W. Sterling: You're for the rapist and against the victim. That's what you are. That's the opinion you're stating here, and I'm going to make you eat it.

Mr. Khalil Ramal: We have a section, sir, in this bill—and you probably didn't read it very well—in which a penalty may apply to a person who violates the no-contact notice. Either side can file for that notice. We cannot create a section and exempt certain people. We have to have a bill, and the bill can apply to all people, adults, whether they live in London or Toronto, whether they have been raped or not. When you are adult, you are adult; you can make your own decisions. Therefore, this bill will come into effect when you become an adult, and

when you're not an adult, you'll be protected according to the law of this province.

Mr. Norman W. Sterling: You'll let the rapist violate her again? You're saying, "Give him the name so that he can go and find her, and the predator can get her again."

Mr. Khalil Ramal: Sir, you're not getting the point, I guess. We said we have a section in place to protect the person.

Mr. Norman W. Sterling: Oh, yeah. These guys really care about those things? Give me a break. These are thugs.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal. Thank you, Mr. Sterling. Dr. Jaczek, if you have some comments.

Ms. Helena Jaczek: Yes, I just have a point of clarification. Listening to what we've heard over the last little while, why was there not the desire to allow the adopted child, at the age of 18, between the ages of 18 and 19, the opportunity to provide a—I know there's a no-contact clause, but why not a disclosure veto?

Mr. Khalil Ramal: There's no disclosure veto.

Ms. Helena Jaczek: But why not?

Mr. Khalil Ramal: There's no disclosure veto. The disclosure veto will not be in effect after September 2008. Now, we've created another one, called the nocontact notice, in which you are allowed, when you turn 18, as an adopted adult, to file not to be contacted. If any person violates this contract or this action, they'll be subject to a penalty, which is \$50,000. If you're a corporation, you will be subject to \$250,000. So there are all these protection mechanisms in place.

When we talk about the person, we're not talking about a child; we're talking about an adult. Adults have a right to express themselves when they turn 18 years old. They can vote and they can make a decision about themselves, and they have a right, according to the law of Ontario and a lot of human rights issues, to express themselves the way they want to. So we cannot have an exemption from certain specifications in this bill or certain sections. Therefore, this bill comes into effect when the person becomes an adult.

Mr. Norman W. Sterling: Why did you have it in 183?

Mr. Khalil Ramal: We're talking about Bill 12 right now, sir.

Interjection.

Mr. Khalil Ramal: We're talking about Bill 12. *Interjection*.

Mr. Khalil Ramal: We're discussing Bill 12.

The Chair (Mr. Shafiq Qaadri): If there's no—dare I ask—further consideration—

Interjection.

Mr. Khalil Ramal: The question was answered.

The Chair (Mr. Shafiq Qaadri): The floor is open.

Ms. Helena Jaczek: Is it possible to hear a little bit more about the prospective nature of the bill and why September 1, 2008, was chosen—just a little bit more background?

Ms. Brenda Lewis: In the policy rationale in developing the new legislation, we were trying to promote openness in responding to the cry from the public, the adoptees within the adoption community. They wanted open records.

When we were looking at how to go forward with these cases, it was clearly identified in discussions with the Ministry of Children and Youth Services that abuse as a child does not predetermine abuse as an adult. So we were looking at how best to handle this.

Through our discussions, it was identified that abuse is no longer kept as a secret through the adoption process anymore. It's often openly talked about with the adoptive parents, and children's aid societies are moving towards a system that provides a greater openness, working with both the birth parents and the adoptive parents. They are promoting more contact with the original birth parents regardless of whether or not there was abuse.

When weighing the openness, then we looked at nocontact notices as a measure that we put in place under the previous legislation that we recommended be left with Bill 12, going forward. That puts a protectionary measure in place. If that individual has accessed their non-identifying information and determined that there's abuse, then they have a choice to register a no-contact notice on their file. In other provinces, the sanctions that have applied have proven to be beneficial and work.

In the essence and the spirit of moving forward on an open-record basis, the decision was made that no-contact notices would be sufficient.

The Chair (Mr. Shafiq Qaadri): Mr. Sterling?

Mr. Norman W. Sterling: I think you should read the judgment with regard to what Judge Belobaba said with regard to the no-contact provisions of the past bill. He laughed at them in terms of what they would mean and what would happen. Basically, the no-contact provisions go against the individual, but it doesn't prevent the brother or another individual from contact. They're very, very limited in their scope, so that if an abusive, violent natural parent wanted to get at his kids, he can get at them through somebody else, without any fine going against him in terms of the no-contact.

The other part is that these people probably have no fear of violence. Some of them have probably been in jail before. They're another side of society. Some of them, as Mr. Prue said, will come around etc. But there's a process in place to deal with that.

The society said in their brief to us, "Children who survive rape as infants, attempted murder, torture, or are starved and exposed to other forms of severe neglect should be afforded the opportunity to rebuild their lives in loving, adoptive homes. Adoptees should not have to live in fear that the perpetrators of those acts of violence have a legal entitlement"—a legal entitlement. That's what we're creating: a legal entitlement for these violent people to learn their names at age 19 and then to track them down, as some of them will no doubt do at some stage of our history.

I guess the only good part about this particular section is that probably the next government will have another crack at it, and that it will not affect that many people in the next three or four years. But notwithstanding that, I just think it's despicable that you hold up individual rights for these people and forget about what happened to these kids. "When they're 19, yeah, they're okay, they can take care of themselves. Let these despicable people who've brought severe damage to these people's lives, both physically, perhaps, and psychologically—let 'em at 'em again. Let 'em know where they are."

The Chair (Mr. Shafiq Qaadri): The floor is open, if there are any further questions, comments or issues.

Seeing none, I'll now invite consideration of PC motion 9.

Mr. Norman W. Sterling: Recorded vote.

Ayes

Jones, Prue, Sterling.

Navs

Dhillon, Jaczek, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): I declare PC motion 9 defeated.

We now have PC motion 3 and PC motion 7. You're welcome to enter them into the record, Mr. Sterling, although I do understand they are—

Mr. Norman W. Sterling: They're not relevant. They're out of order now.

The Chair (Mr. Shafiq Qaadri): We'll now go back to consideration of section 4, as amended.

Those in favour of section 4, as amended?

Mr. Norman W. Sterling: I want a recorded vote.

Ayes

Dhillon, Jaczek, Ramal, Sandals.

Nays

Jones, Prue, Sterling.

The Chair (Mr. Shafiq Qaadri): I declare section 4, as amended, carried.

We'll now proceed to consideration of section 9. PC motion 10.

Mr. Norman W. Sterling: I don't think it's relevant either.

The Chair (Mr. Shafiq Qaadri): Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

We'll now consider section 11. PC motion 11.

Mr. Norman W. Sterling: It's not relevant.

The Chair (Mr. Shafiq Qaadri): Shall section 11 carry? Carried.

Section 12: PC motion 13.

Mr. Norman W. Sterling: It's not relevant.

The Chair (Mr. Shafiq Qaadri): Shall section 12 carry? Carried.

Having not received, to date, any amendments for, inclusive, sections 13, 14, 15 and 16, we'll put them to a block vote.

Shall those sections, so named, carry? Carried.

Finally, shall the title of the bill carry? Carried.

Shall Bill 12, as amended, carry? Carried.

Shall I report the bill to the House? Carried.

If there are no more questions or considerations, then I adjourn this committee.

The committee adjourned at 1723.



CONTENTS

Tuesday 22 April 2008

Access to Adoption Records Act (Vital Statistics Statute Law Amendment), 2008, Bill 12, Mrs. Meilleur / Loi de 2008 sur l'accès aux dossiers d'adoption (modification de lois en ce qui concerne les statistiques de l'état civil), projet de loi 12, M^{me} Meilleur SP-45

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke–Lakeshore L)
Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)
Ms. Cheri DiNovo (Parkdale–High Park ND)
Ms. Helena Jaczek (Oak Ridges–Markham L)
Mr. Dave Levac (Brant L)
Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London-Fanshawe L)
Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)
Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mrs. Laura Albanese (York South-Weston / York-Sud-Weston L)
Ms. Sylvia Jones (Dufferin-Caledon PC)
Mr. Michael Prue (Beaches-East York ND)
Mrs. Liz Sandals (Guelph L)
Mr. Norman W. Sterling (Carleton-Mississippi Mills PC)

Also taking part / Autres participants et participantes

Mr. Peter Rusk, counsel, legal services,
Ministry of Community and Social Services
Ms. Brenda Lewis, manager, community services,
Ministry of Community and Social Services
Mr. Jacob Bakan, counsel,
Ministry of Government and Consumer Services
Dr. Ann Cavoukian,
Information and Privacy Commissioner

Clerk / Greffier Mr. Katch Koch

Staff / Personnel
Ms. Sibylle Filion, legislative counsel

SP-6



SP-6

Governm Publication

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Monday 9 June 2008

Standing Committee on Social Policy

Cosmetic Pesticides Ban Act, 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Lundi 9 juin 2008

Comité permanent de la politique sociale

Loi de 2008 sur l'interdiction des pesticides utilisés à des fins esthétiques

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 9 June 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 9 juin 2008

The committee met at 1434 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, legislative colleagues, I welcome you to the Standing Committee on Social Policy for consideration of Bill 64, An Act to amend the Pesticides Act to prohibit the use and sale of pesticides that may be used for cosmetic purposes

Before beginning the substantive portion of the meeting, I invite our subcommittee members to please read the report into the Hansard record, for which I will call upon Ms, Broten.

- Ms. Laurel C. Broten: Your subcommittee on committee business met on Thursday, June 5, 2008, to consider the method of proceeding on Bill 64, An Act to amend the Pesticides Act to prohibit the use and sale of pesticides that may be used for cosmetic purposes, and recommended the following:
- (1) That the committee meet for the purpose of holding public hearings in Toronto on Monday, June 9, 2008.
- (2) That the clerk of the committee post information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website and, if possible, in major Ontario newspapers.
- (3) That interested people who wish to be considered to make an oral presentation on the bill should contact the clerk of the committee by Friday, June 6, 2008, at 5 p.m.
- (4) That the clerk of the committee provide a list of interested presenters to the subcommittee following the deadline for requests.
- (5) That each caucus provide the names of six proposed witnesses and five alternates to the clerk of the committee by Monday, June 9, 2008, at 10 a.m.
- (6) That each presenter be given 10 minutes in which to make a statement and answer questions.
- (7) That the deadline for written submissions be Friday, June 13, 2008, at 12 noon.
- (8) That amendments to the bill be filed with the clerk of the committee by Friday, June 13, 2008, at 5 p.m.
- (9) That the committee meet on Monday, June 16, 2008, for clause-by-clause consideration of the bill.
- (10) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the

report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

The Chair (Mr. Shafiq Qaadri): Are there any questions, comments or urgencies with regard to the subcommittee report? Seeing none, I'll ask for its adoption. Those in favour? Carried.

COSMETIC PESTICIDES BAN ACT, 2008

LOI DE 2008 SUR L'INTERDICTION DES PESTICIDES UTILISÉS À DES FINS ESTHÉTIQUES

Consideration of Bill 64, An Act to amend the Pesticides Act to prohibit the use and sale of pesticides that may be used for cosmetic purposes / Projet de loi 64, Loi modifiant la Loi sur les pesticides en vue d'interdire l'usage et la vente de pesticides pouvant être utilisés à des fins esthétiques.

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): We'll move now to presentations by our external presenters. As you know, we're here to consider the Pesticides Act. I remind everyone listening and those watching elsewhere that the presentations will be 10 minutes in total time. The presenters are invited to use that time as they wish, but if any time is left over, that will be distributed evenly among the parties for questions and comments and, no doubt, aggressive cross-examination.

With that, I now invite Wendy Fucile, president of the Registered Nurses' Association of Ontario. I thank you in advance for the materials you have distributed and invite your cohort to please introduce yourselves for the purposes of Hansard. You have 10 minutes, beginning now.

Mr. Kim Jarvi: Kim Jarvi, senior economist, Registered Nurses' Association of Ontario.

Ms. Wendy Fucile: Thank you, Mr. Chair, ladies and gentlemen of the committee, we very much appreciate the opportunity to meet with you today. My name is Wendy Fucile, and I am the president of the Registered Nurses' Association of Ontario, RNAO, the provincial association for registered nurses in Ontario.

RNAO members practise in all roles and sectors across the province. Our mandate is to advocate for

healthy public policy and for the role of registered nurses in enhancing the health of all of Ontario's citizens. We welcome this opportunity to present our views to the Standing Committee on Social Policy on Ontario's Bill 64, An Act to amend the Pesticides Act to prohibit the use and sale of pesticides that may be used for cosmetic purposes.

Bill 64 has the potential to be an important step in the right direction, but we're not popping the champagne corks yet. RNAO and its members have been working hard to achieve protection against non-essential use of pesticides across this province for many years. We were delighted to attend Premier McGuinty's press conference to introduce this important legislation, and we were especially pleased that during that announcement the Premier stated unequivocally that "Ontario's legislation would serve as a floor and not as a ceiling." We were, therefore, most distressed when this statement was later contradicted by Minister Gerretsen's office.

The bill has some excellent features that could put Ontario at the forefront of protection of the public against pesticides. We are pleased that the bill will ban the use and sale of pesticides for cosmetic purposes and will cover residential, industrial, commercial, institutional, municipal and provincial properties, including rural residential properties. We are also very pleased that the Minister of the Environment announced that the implementation period would be swift, with the ban to be in effect for the 2009 growing season. We do, however, have serious concerns about certain features of the bill in its proposed form, and we will work to further necessary changes to fix those problems.

Specifically, as presently written, the bill would empower the government to introduce other exemptions by regulation. This, in our view, is a dangerous and unnecessary provision that could put current or future cabinets under pressure from industry and undermine the intent of the legislation. Indeed, the lawn care industry organization, Landscape Ontario, makes clear in its briefing note on Bill 64 that it would seek exemptions for so-called weed and insect infestations. These exemptions make implementing pesticide legislation more costly and difficult, and represent loopholes to continue business as usual.

1440

The bill, as presently written, would take away from municipalities the right to exceed the provincial standard in pesticide protection. This pre-emption strategy has been used with great success by the pesticide industry in the US, and we do not want to see it used here. RNAO is most concerned with this, because municipalities have always had a leadership role in pesticide and toxic chemical management, and because municipalities are in a good position to respond to local health issues. Some existing municipal protections—for example, banned uses of pesticides—could be rolled back with the legislation, as currently written.

The bill would exempt gold courses, which is inconsistent with RNAO's belief that exemptions should be limited to public health purposes.

The government has released a list of pesticides that could be banned from use or sale for cosmetic purposes. This list does not include all pesticides of concern; for example, Roundup. An inclusion list of allowed minimally toxic substances would be a preferable approach. A precautionary approach is essential when determining which substances would be allowed on that list.

RNAO is also seeking assurance that the government will provide the needed resources to implement the new legislation, including funding for education and enforcement.

To summarize our recommendations, RNAO strongly supports the ban on the use and sale of pesticides for cosmetic purposes.

RNAO recommends use of the precautionary principle in developing the list of banned or allowed substances. RNAO further recommends employing an inclusion list of allowed substances, which would be more protective than a list of banned substances. An efficient and precautionary process for adding or removing substances from the list must be specified.

RNAO strongly supports province-wide coverage with protection for all Ontario citizens, whether they live in built-up areas or in rural or remote areas.

RNAO supports exemptions for public health, as determined by the medical officer of health, but is opposed to other exemptions, such as exemptions for golf courses.

RNAO is particularly concerned about the exemption for "other prescribed uses," with those uses to be prescribed by regulation. RNAO strongly recommends that the clause exempting other prescribed uses be removed from the legislation.

RNAO strongly urges compete removal of the clause rendering municipal pesticide bylaws inoperative. Ontario must preserve municipalities' rights to take protective legislative measures against pesticides that go beyond those delivered by the province. Municipalities have been key partners in protecting citizens from pesticides, and they must remain our partners. As a citizen in a community where municipal government was an early adopter, I can speak to the value of this approach.

RNAO supports the timely implementation of this legislation for the 2009 growing season, and urges that sufficient resources are allocated for education and enforcement.

This legislation has the potential to be the strongest of its kind in North America. RNAO and its members have a big stake in making it succeed. Nurses in Ontario have fought the cosmetic pesticide battle on many fronts, and we will see that fight through to the end.

Our work began as a collaboration with a wide range of health and environment groups on municipal pesticide campaigns. As a result of our work with these others, at least 32 Ontario municipalities covering 45% of the population now enjoy the protection of pesticide bylaws. Legislation banning pesticides is extremely popular with the public, and Ontarians are looking to the leadership of Premier McGuinty to extend this protection across the province.

RNAO has joined a broad coalition of other health and environmental organizations to lobby for strong legislation to protect against the non-essential use of pesticides. This coalition remains united and determined to work together and work with its broad constituencies to bring the protection that Ontarians want.

RNAO's members are enthusiastic about our position. They give us the strength and determination to continue to work for pesticide legislation that will work and will

be cutting-edge in North America.

Ontario's children—our children, our grandchildren—deserve nothing less.

The Chair (Mr. Shafiq Qaadri): Thank you. We have minimal time for just a few comments, starting with the PC side. Mr. Shurman.

Mr. Peter Shurman: Very briefly, you didn't touch on agriculture at all in your presentation, and I'm wondering what your position is in regard to pesticides used on farms, because that's over 90% of pesticide use, and you'd have to agree that's under controlled circumstances. What about agriculture?

Ms. Wendy Fucile: In regard to agriculture, I think we have to be clear that there is a requirement that there's nothing cosmetic. We need to look at water supply, where the downflow is, and what else we are introducing at the price of protecting our cost. I believe there are some specific points on that that Mr. Jarvi could make—

Mr. Peter Shurman: Can you answer it more briefly? The Chair (Mr. Shafiq Qaadri): With respect, I'll have to intervene there and offer it now to the NDP.

Mr. Peter Tabuns: Could you speak very briefly to the health impacts of pesticides that you, as medical professionals, have been concerned about?

Ms. Wendy Fucile: Do you want to answer the

technical piece, Kim?

Mr. Kim Jarvi: The evidence is actually cited in our submission. There are a lot of different reviews, particularly epidemiological literature, that are quite extensive. Dr. Sheela Basrur, for instance, did a study for Toronto in advance of its pesticide bylaw, a very large study that the Ontario College of—

The Chair (Mr. Shafiq Qaadri): I have to intervene there. I suggest that if there are any substantive issues to be discussed, perhaps you might contact the MPPs later.

To the government side. Mr. Flynn.

Mr. Kevin Daniel Flynn: I just want to express thanks from this side of the table for your presentation. Your information was received and was heard very clearly.

Ms. Wendy Fucile: Thank you. We would be delighted to respond to other questions in a different forum.

The Chair (Mr. Shafiq Qaadri): Thank you very much, colleagues, and thank to the Registered Nurses' Association of Ontario.

ONTARIO COLLEGE OF FAMILY PHYSICIANS

The Chair (Mr. Shafiq Qaadri): I will now invite to come forward to the podium Ms. Janet Kasperski, chief

executive officer, as I know very well, of the Ontario College of Family Physicians. Ms. Kasperski, as you've seen, you have 10 minutes to make your presentation. Your written materials are being distributed, and I invite you to begin now.

Ms. Janet Kasperski: Thank you. I am from the Ontario College of Family Physicians, and I want you to know that we're a chapter of the College of Family Physicians of Canada. We have 8,400 family physicians who practise here in Ontario and 22,000 across Canada. As an organization, we were established in 1954 for the express purpose of setting standards for a new and emerging specialty called family medicine. We oversaw the establishment of family medicine residency programs in the 16, and now 17, medical universities across Canada. We're a body that oversees the education of medical students and family medicine residents, and we work very hard to keep our practising family physicians in the province very current so that they can provide the best advice to prevent disease before it starts and to assess, diagnose and treat disease.

Where exposures to contaminants like pesticides are concerned, we work in our offices, in emergency departments and in hospitals, and we see first-hand the health problems that can occur when we don't protect people, especially our children, from exposures to environmental hazards.

In 1992, Health Canada conducted a Canada-wide survey, and the public identified family doctors as the most trusted source of information on health and the environment, and family doctors stated that their knowledge in this area was quite weak. So we established the environmental health committee to gather the information, the evidence we needed on the impact of the environment on health and to develop it into educational programs and materials that would address this issue.

One of the first areas that the committee researched was pesticides, and we did so because there was a great level of concern amongst our members and the patients they served, and we felt there was an ability to develop preventive strategies, one of which is the pesticide law you are here today to discuss.

In 1999, the Ontario college undertook a review of the literature, to develop a series of educational modules on the impact on the environment and health. We're a cautious group, and we rarely speak out without a foundation of evidence to back up what we're saying. The evidence that was available to us was in the literature.

The Pest Management Regulatory Agency receives animal studies conducted or paid for by the pesticide manufacturers, but they were kept secret from the general public and considered to be proprietary. The evidence from the studies of humans exposed to pesticides strongly supports the stance we have continued to adopt to this very day. We found evidence of harm from exposures to pesticides. We were particularly worried about pregnant women and their fetuses being exposed to pesticides, as well as infants and children. We crafted our findings into a brochure that family doctors could dis-

tribute to their patients, to warn them to avoid pesticides unless it was absolutely necessary.

In 2002, Dr. Sheela Basrur, then the medical officer of health in Toronto, conducted a study looking at the effects of house and garden pesticides on human health. Dr. Basrur found similar effects and began the process of developing a bylaw banning the use of pesticides for cosmetic purposes in Toronto.

As that bylaw moved forward, DuPont, the manufacturer of Agent Orange, threatened to sue the family doctors of this province if we did not remove all references to the pesticide study from our website. Instead of removing the information, we conducted another study to update the literature, to find further research papers that had been conducted since our original study. We found that the newer studies provided even stronger evidence that pesticides are harmful to human health.

That's our report. It's a tome, it's big, it's very well done. Our findings show associations between solid cancer tumours and pesticide exposure: brain cancer, prostate cancer, kidney cancer and pancreatic cancer, among others. We found non-Hodgkin's lymphoma; leukemia; nervous system effects like depression, suicide and learning difficulties; chronic disorders like Parkinson; and birth defects, fetal death and uterine growth retardation.

We are very concerned about pesticides and their effects on adults, but their effects on children really worry us: kidney cancer, brain cancer, haematological tumours such as non-Hodgkin's lymphoma and leukemia, and increased risk of leukemia if the child is exposed in utero.

Our paper, as it was being released, found great pressure from the pesticide industry. They really wanted us to weaken the version of the Toronto bylaw. Dr. Basrur was very much supported during that period of time by a group of doctors, nurses and others who came together to say to her, "Move forward," and she did.

During that period of time, the pesticide industry did everything they could to discredit our paper. An organization in the United Kingdom, very similar to the Pest Management Regulatory Agency, was bombarded with complaints because they were not looking at the literature we were looking at. One of their staff, in defence of the stance they had taken of only looking at animal studies, reviewed our paper and accused us of being selective in the ones we chose. When we explained that we had removed those papers whose methodology was very weak and that were biased, i.e., bought and paid for by others, the non-industry members of that UK group wrote a minority paper supporting our paper.

The pest management regulatory association here in Canada reached out to us. They agreed that they had only been looking at animal studies and agreed to put epidemiologists within their organization. They asked the OCFP to become a member of their advisory committee.

One of the first things we did was take them to task for using the word "safe" in regard to pesticides. Pesticides are never safe. There are some benefits to pesticides. It's why they're regulated. But there is always some danger, particularly to mothers and their fetuses, to infants and children. We have noticed in the literature, in the media, fairly recently that they again are using the term "safe," and we have again taken them to task. They identified the fact that they were trying to reassure the public that they were doing their job. They are not doing their job when they use that word. They would do a much better job if they identified the fact that we should all avoid pesticides unless they're absolutely necessary.

Within your package is an illustration from Mexico. It shows learning disabilities. Children exposed to pesticides are on the right side. They scribble, where children who are protected from pesticides at three and four years of age are able to draw quite accurately. We use it as a sign of the rationale for the learning disabilities that we see within our study.

We want you to know that we stood beside Sheela Basrur and we will stand beside this government. However, we want this legislation to be a cellar, and not the ceiling.

Many communities have worked long and hard to develop strong pesticide bylaws that will protect the children in their community. This bill, as it is written, weakens their ability to do so and, indeed, in many respects weakens the very fibre of municipal governments by taking away the right to protect the citizens they serve. You did not do this with smoking. You allowed the municipalities to go beyond the provincial law.

In closing, the OCFP would request that the reference to municipalities be dropped so that our citizens and cities can pass more health-protective pesticide bylaws if they so choose. We would like to see the golf course exemption removed as well. There are many examples across Canada of very successful golf courses that are pesticide free. And we would like to see the "other prescribed uses" exemption removed as well. We are concerned, like our nursing colleagues, that this exemption will undermine everything that the legislation hopes to achieve.

Our closing message to you is the same as the one we give to our patients: Pesticides should be avoided whenever and wherever possible. Cosmetic bylaws need to be passed, and they need to be strong.

Chair (Mr. Shafiq Qaadri): Thank you, Ms. Kasperski, for your precisely timed remarks. Regrettably, that will leave no time for questions. I thank you for your presence as well as your written submission.

CANADIAN ASSOCIATION OF PHYSICIANS FOR THE ENVIRONMENT

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward: Gideon Forman, executive director of the Canadian Association of Physicians for the Environment, and colleagues.

Mr. Peter Shurman: On a point of order, Mr. Chair: I recognize that there's a structure to the committee

process, but I don't believe we're being fair to our stakeholders if we time them out at 10 minutes and we get no opportunity to question them.

The Chair (Mr. Shafiq Qaadri): I would, with respect, accept your remarks. I would very much encourage you to please speak to your subcommittee member to bring that up at the time these matters are being decided.

I'd now invite Mr. Gideon Forman to please begin.

Mr. Gideon Forman: Thank you, Mr. Chair and members of the committee. We very much appreciate your offering us this opportunity to speak today. As executive director of the Canadian Association of Physicians for the Environment, I speak on behalf of nearly 3,000 doctors and concerned citizens from across the country. I'm here today to speak strongly in support of Bill 64, but also to request, as my other health colleagues have, three amendments that we believe would make it even more protective of human health and the environment.

Like Toronto's medical officer of health, Dr. David McKeown, my organization believes that the overall thrust of Bill 64 is exactly right. In fact, we have stated publicly that it has the potential to be the most health-protective pesticide legislation in North America. We're particularly pleased that the government's intention is to ban pesticide sales. By doing this, it will substantially reduce exposure to these toxic products, and therefore provide significant protection against illnesses, primarily cancer and neurological illness, that are associated with pesticide exposure. But like Dr. McKeown, we have serious concerns about the clause in the bill which would render municipal bylaws inoperative.

For a start, the very notion of limiting cities' ability to protect human health is worrisome. Today the issue is pesticides; tomorrow it may be something else. Are we seeing here the beginning of a trend toward a general diminution of municipal powers? Whether the issue is tobacco control, junk food, sewer use or community right to know, cities have time and again displayed their expertise in the field of environmental protection and health. What possible sense is there in clipping cities' wings? In short, this clause sets a very troubling precedent that threatens cities' ability to protect citizens in a whole range of areas.

We're also concerned about provincial governments of the future. Obviously, we have great faith in your government, the McGuinty government, but what if 10 or 15 years down the road Queen's Park decides to gut the cosmetic pesticides ban? There would be no strong provincial legislation at that point and no municipal power to create pesticide bylaws. In other words, the public would lose all protection against toxic lawn chemicals.

Our point is that municipal bylaw-making authority is not a redundancy. On the contrary, it's a vital safety net ensuring that, whatever upper levels of government may do, the public remains safe.

Dr. McKeown has wisely pointed out that municipal powers were not stripped when the province passed its

landmark Smoke-Free Ontario Act. Rather, the legislation allows, as you know, the preservation of municipal anti-smoking bylaws, with the caveat that whichever is more restrictive of tobacco—the bylaw or the provincial legislation—prevails. My colleagues at the Canadian Cancer Society tell me that the Smoke-Free Ontario Act is a superb piece of legislation. I understand it's one of the strongest in North America. All we're asking is that the model followed with respect to smoking is also followed with respect to pesticides.

It seems to our organization that this whole legislative exercise, the whole essence of this, is about protecting public health. Surely if a municipality wants to go beyond the provincial legislation and offer its citizens enhanced protection, it should be allowed to do so. We're particularly concerned about severely polluted communities. Some municipalities have more than the average pollutant burden from, say, local industry or a nearby toxic waste dump. I'm thinking of places like Sarnia or Windsor, for example. The local government does not have control over these industrial sources of pollutants, but it can reduce residents' total chemical exposure by enacting a pesticide bylaw.

In short, municipal governments need the ability to respond to their unique local needs, and this means letting them pass bylaws that would go beyond the provincial standard. We therefore ask that any reference to municipalities in Bill 64 be struck out.

The second point is that the exemption for golf courses should be withdrawn. Runoff from golf pesticides ultimately ends up in our water, threatening drinking water supplies, to be sure, but also aquatic wildlife and fish. More worrisome still, scientific studies—and the College of Family Physicians has been excellent at these—on golf course superintendents, who, as we know, spend a lot of time around pesticides, show that these workers have elevated levels of mortality from cancer. I do have the studies here.

While we recognize that golf courses face some special challenges in eliminating pesticides, a permanent legislated exemption, which is what the government's proposing, we believe is not warranted, and frankly is inconsistent with the intention of the bill. After all, golf pesticides, strictly speaking, are a "cosmetic use" as defined in the legislation—i.e., non-essential. There are at least two pesticide-free golf courses in Canada, as you know: There's one in Nova Scotia, Fiddler's Green; and there's another in British Columbia, Blackburn. We see no reason why Ontario operators could not follow in the footsteps of these industry leaders.

We also believe, frankly, that there's an economic argument to be made here, that going pesticide-free could increase golf club revenues and profit, leading to some economic stimulation and some job growth. Would today's health-conscious golfer be willing to pay just a little more to play on a safer, more environmentally friendly surface? We think the answer is yes.

Finally—I will wrap up, Mr. Chair; I'm mindful of the time—we urge you to remove the bill's exemption for the

so-called "other prescribed uses." This catch-all clause would, we fear, allow pesticide applications for any and every use. Certainly it could be used to justify cosmetic spraying, which would clearly undermine the bill's whole intention. If the issue here is ensuring that pesticides can be used for emergencies, for health and safety issues or for prevention of illness, surely that's already covered under the quite reasonable health and safety exemption. As a doctor's organization, we can see no possible justification for an exemption that's as broad and as vague as the so-called "other prescribed uses." If allowed to stand, it could undermine everything the legislation hopes to achieve.

In sum, the Canadian Association of Physicians for the Environment is very supportive of the proposed ban. We only ask that you drop the clause referring to municipal powers, and that you remove the exemption for golf courses and the so-called "other prescribed uses."

Mr. Chair, I'm happy to answer any questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Forman. About a minute per side, beginning with Mr. Tabuns.

Mr. Peter Tabuns: Could you speak directly to the whole question of health impacts on golf grounds managers?

Mr. Gideon Forman: Sure. There's been a fair bit of research done in this area. One of the studies that I'm looking at, from the Ontario College of Family Physicians' Pesticide Literature Review—they did what's called a cohort study. They looked at 680 deceased male members of what they call the Golf Course Superintendents Association of America. They compared them to cancer mortality in the general US male population and they found that on a whole range of cancers, this cohort of golf superintendents had higher mortality from cancers. I'm talking about lung cancer, brain cancer, non-Hodgkin's lymphoma and prostate cancer. So there is a fair bit of evidence that these people who spend a lot of their time around pesticides are at increased risk for mortality from cancer.

Mr. Peter Tabuns: Thank you.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Kevin Daniel Flynn: Thank you for the presentation. Could you comment on your knowledge of the experience of other jurisdictions that have implemented pesticide bans?

Mr. Gideon Forman: Sure. The best example, as you know, is the province of Quebec. What we saw in Quebec, based on Statistics Canada, was a dramatic drop in pesticide use following their province-wide ban on these products. They had about a 50% drop in household pesticide use, according to Statistics Canada. So they're very effective in doing what they're trying to do, which is reduce the non-essential use of pesticides.

The Chair (Mr. Shafiq Qaadri): To the PC side.

Ms. Laurie Scott: I just wondered if you could say, in a word or two, what is the active ingredient that you say is linking the workers on the golf course to an increased risk of cancer?

Mr. Gideon Forman: There's a whole range of active ingredients, and different golf courses use different products. We're concerned with a whole range of products.

Ms. Laurie Scott: We have Health Canada, which you haven't mentioned, and they do all the approvals.

Mr. Gideon Forman: They do registrations, yes.

Ms. Laurie Scott: Yes. So does Health Canada have no credibility in these studies?

Mr. Gideon Forman: Sure, they have credibility.

Ms. Laurie Scott: So you don't believe what they're saying? Because they're saying that they have tested the most susceptible portions of the population, and they find no harm or linkages with these ingredients.

Mr. Gideon Forman: With all due respect, that's not quite what they say. They say, first of all, that all pesticides come with risks, and they do. There's a whole range of pesticides that they've looked at, and some are more harmful than others. But to say that there's no harm from them I don't think is quite accurate.

Ms. Laurie Scott: Well, I can use quotes that they say when their use is prescribed—they measure on the amount that is used, but it's used as directed on the labels, which are, again, all approved by Health Canada. I'm trying to get the science behind all of this so that we have accurate information, and Health Canada is the regulatory body in that manner.

Mr. Gideon Forman: Sure. There's a huge amount of science. A lot of the science that they use is animal science. What the doctors and nurses in the cancer Society tend to look at is human science; in other words, epidemiological studies. For example, the Canadian Pediatric Society two years ago published a paper on 2,4-D—this is doctors now—and doctors said: "2,4-D can be persuasively linked to cancers, neurological impairment and reproductive problems." So if you look at what doctors are saying—

The Chair (Mr. Shafiq Qaadri): I'm going to have to intervene there, Mr. Forman. Despite this being, of course, an ultimately important point, I would, as I say, encourage you to communicate the materials in question and answer later, perhaps through the committee or even directly. So thank you for your presentation on behalf of the Canadian Association of Physicians for the Environment.

ALEX CULLEN

The Chair (Mr. Shafiq Qaadri): I would now invite Mr. Alex Cullen of Ottawa city council for the Bay ward. I would also advise members of the committee that Mr. Cullen is a former member of provincial Parliament, having served in the 36th Parliament from June 1995 to May 1999—as we say, in the good old days.

Mr. Alex Cullen: Thank you. You're very kind, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Mr. Cullen, I would invite you now to please begin.

Mr. Alex Cullen: Thank you, Mr. Chair and members of committee for allowing me the opportunity to speak.

My name is Alex Cullen. I am the councillor for Bay ward in the city of Ottawa, and I'm here to represent the city of Ottawa in supporting Bill 64.

I think you have before you a motion that was passed by our council on May 28: "That city council endorse the Ontario government's initiative to prohibit the use and sale of cosmetic pesticides in Ontario and urge speedy passage of Bill 64, that Ottawa city council request that Bill 64 be amended to permit municipal bylaws governing the use and sale of cosmetic pesticides that are consistent with the intent and purpose of Bill 64, and that this motion be copied to the Premier, the leaders of the opposition parties, the Ministry of the Environment" etc. 1510

I won't spend a lot of time providing you with evidence supporting banning the use and sale of cosmetic pesticides. Their health risks to humans, particularly children, are well documented and continue to grow, to the point where we have a number of health organizations across this nation taking up the campaign to eliminate this public health risk.

What I am here to do is speak to you about subsection 7.1(5), which would render municipal bylaws inoperative. The irony is that it was the municipality of Hudson, over 20 years ago, that passed the first bylaw in Canada dealing with cosmetic pesticides. That was taken to the Supreme Court of Canada and the Supreme Court validated that municipality's position. Since then, as the evidence has mounted, municipalities across Canada began to pass bylaws, particularly at the recommendation of their medical officers of health.

In Quebec, because there was such a municipal wave, the government of Quebec put in place the pesticides management code, and obviously we're seeing Ontario take the same position. However, it does not make sense to take away from the very level of government that is closest to the communities it serves the ability to protect those communities where provincial legislation falls short. That is not the position that was taken in Quebec. The Quebec pesticides management code does permit municipal bylaws that deal with the same area, as long as they're not inconsistent with the purpose and intent of the act.

I have to bring to your attention—I'm sure others have—this government's position with respect to smokefree legislation. As you know, smoke-free bylaws began at the municipal level and took a long time to develop at the municipal level, but it came to the point where the government of Ontario stepped in and passed such legislation. Section 12 of the Smoke-Free Ontario Act states: "If there is conflict between sections 9 and 10 of this act and a provision of another act, a regulation or a municipal bylaw that deals with smoking, the provision that is more restrictive of smoking prevails..." That is exactly what we want to see with respect to this particular legislation.

Mr. Chairman, I'm stopping now because I know that politicians like to ask questions, and I'm going to permit that opportunity.

The Chair (Mr. Shafiq Qaadri): Thank you for that regard. I will now offer the floor to the government side. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for travelling down from Ottawa. You obviously have a long-time interest in this subject. I note that you've introduced motions yourself, in 2002 and 2005, for the city of Ottawa to implement a bylaw. I come from Oakville, where we have a bylaw in place—the debate raged for quite some time, but we had successful passage.

Mr. Alex Cullen: Congratulations.

Mr. Kevin Daniel Flynn: During that debate, there was a lot of interest in the province acting on this instead of municipalities drafting their own bylaws, similar to the smoking bylaws, where you almost had an adversarial situation between neighbouring towns and cities-that type of thing. Obviously there's an advantage, and you support implementation of this bill. Could you expand a little more on your experience with the city of Ottawa and how you got to the position you now are at, where I guess there's some interest but there isn't a bylaw?

Mr. Alex Cullen: We came very close—within a tie vote. Quite frankly, our example was across the border. The little municipality of Chelsea has had a pesticide-free bylaw for many years, and the mayor came and spoke to us in favour. We had doctors, nurses, environmentalists, organic growers and community activists. The only people who came to speak against our bylaw were industry advocates from across the province: Weed Man from Kingston, Nutri-Lawn from Brockville. They came from all over the province, as if we were an attraction at that point. It was a difficult conversation.

But just to go back to smoking, in my municipality we had a no-smoking bylaw. Other municipalities had no smoking bylaws, and they varied. I applaud the government for trying to have a common standard to protect Ontarians across the province. But there are times when a community will want to take that extra step. For example, under smoking we can take that extra step if we feel it better protects our community. Why can we not do the same thing with pesticides? If you, as a government, already believe this is not a good thing to expose people to, particularly children, then allow us the opportunity to do that on behalf of our own community.

The Chair (Mr. Shafiq Qaadri): The PC side: Mr. Shurman.

Mr. Peter Shurman: Less than 2% of all pesticides used pertain to the uses we're discussing today, i.e. residential use on front lawns—Weed Man etc. Health Canada, which comprises over 500 technicians, all pharmacological, medical—

Mr. Alex Cullen: I used to work at Health Canada

Mr. Peter Shurman: Then you know it very well. It is the definitive authority and, supported by the World Health Organization, has stated categorically that the use of pesticides, properly administered, provides no risk to the health of people. I'm asking you for your reaction; you've worked there.

Mr. Alex Cullen: I did work there. As a matter of fact, I was a policy analyst for a number of years. They say, "Use as directed." For 2,4-D, do not inhale, do not expose your skin to 2,4-D. Why? Because you may get cancer from it. When you have 2,4-D forming a number of products in our community, going onto our lawns and into our water system—the city of Ottawa has documented the presence of pesticides in our water system—we are carrying it in our bodies. And when our medical officer of health comes to us and says, "This is an easy way to reduce your exposure to the risks associated with these chemicals," we ought to listen.

Mr. Peter Shurman: I could say the same thing about any medication that's prescribed by a doctor. If I don't take it as directed, I may kill myself.

Mr. Alex Cullen: But you're not spraying it all over the place. You're not spraying on people's lawns. The difference with your 2% cosmetic use is that 98% of people live in urban settings. They're being exposed to this. Out in an agricultural area, population density is much less; in an urban area, it's much higher and we cannot defend ourselves from our neighbours spraying these chemicals. As I say, it goes into our water supply and we get exposed, and it's absolutely unnecessary.

Mr. Peter Shurman: Do you advocate spraying, for example, for mosquitoes, as is being now done here in Toronto?

Mr. Alex Cullen: We don't spray for mosquitoes, but we do put in larvicide to deal with the larvae. We actually use Bti, which is a natural bacterial product, as larvicide. But when you need exemptions to protect public health, the public will be there to support you.

Mr. Peter Shurman: Do you eat food that—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Shurman. Mr. Tabuns.

Mr. Peter Tabuns: Mr. Cullen, could you talk a bit about the options the city of Ottawa would have if the province imposed a ceiling on actions they could take against pesticide use?

Mr. Alex Cullen: Well, if this provision stays in place, we don't have that many options, but it's amazing what citizens will do. Many good ideas come from the bottom up. If you think of blue box, it was not top-down; it was bottom-up. The origin of health care was a municipality, Weyburn, Saskatchewan, which decided to hire a doctor. Many local initiatives become national policies after a while.

I'm concerned about exemptions, for example, that would allow IPM, or integrated pest management, which is touted by the industry as the safe way to go. It's not if the chemicals are still there.

I'm amazed: I have family in Montreal. We get the brochure from Nutri-Lawn in Montreal and the brochure from Nutri-Lawn in Ottawa. In Montreal, they can sell you lawn care services that are pesticide-free for maybe five bucks more a month. It's the same colour of brochure here in Ottawa, and of course they use pesticides. How can they be successful selling their products in Montreal without the use of pesticides? It can be done, and we should do it.

The Chair (Mr. Shafiq Qaadri): Thank you for coming forward, Mr. Cullen, as well as for your submission in both official languages.

CANADIAN FEDERATION OF UNIVERSITY WOMEN, ONTARIO COUNCIL

The Chair (Mr. Shafiq Qaadri): I now invite Ms. Elaine Harvey and Sheila Clarke, of the Canadian Federation of University Women, Ontario Council, to come forward. As you've seen, the protocol is 10 minutes in which to make a presentation. I invite you to begin now.

Ms. Elaine Harvey: Thank you very much, ladies and gentlemen. I am Elaine Harvey of Kingston, Ontario, immediate past chair of the legislative standing committee of the Canadian Federation of University Women, Ontario Council. With me is Sheila Clarke of Stratford, Ontario, past director of legislation for the national organization of CFUW. Due to the short notice, our president, Myra Willis, was unable to attend today.

CFUW, Ontario Council, welcomes the opportunity to comment on Bill 64, and is pleased that the government of Ontario has initiated a revision of the pesticide bill. CFUW is a 10,000-member national organization with a long-established history of research and advocacy in public affairs. The Ontario council has 59 clubs throughout the province pursuing the same path with regard to provincial matters. CFUW is affiliated with the International Federation of University Women, IFUW, founded in 1919, with members in over 120 countries.

We have a well-established policy on the environment, dating from 1967. We take as our authority in establishing policy the policies of IFUW, CFUW and the Ontario council, recognizing that each adopted resolution has been carefully researched and approved by delegates at duly constituted annual general meetings. The environment has always assumed a large role in our research and advocacy.

1520

Ms. Sheila Clarke: Good afternoon. My name is Sheila Clarke.

CFUW is supportive of the government intention to protect the residents of Ontario from unnecessary use of pesticides. We particularly commend the application of this legislation to both urban and rural residential properties and the broad application of it throughout the communities. These elements are truly forward-thinking.

CFUW proposes seven recommendations to ensure that the bill will adequately protect public health, successfully change usage and perceptions of pesticides and fully reflect rapidly changing attitudes toward cosmetic use of pesticides in Ontario municipalities.

Firstly, the bill should prohibit use of non-essential pesticides, except as necessary, for the promotion of public health and safety. This pertains to a fundamental premise of the bill, and that is the designation of chemical components as the criteria of use, or not. A list of this

nature is essential for the prohibition of sales of cosmetic pesticides. However, it is puzzling as the defining element for use. It would seem that no use of pesticides for cosmetic purposes is the message we have received surrounding the intent of the bill. That is a definition by use rather than by chemical component and, as such, appears to be the language of many municipal bylaws as well as the general intent expressed by the public.

Approximately 50 years ago, cosmetic pesticide use began. Before that, weeds were generally accepted as a fact of life, and for those who didn't wish to have them, they could be removed manually. Children made necklaces of dandelions, and most mothers received a small and treasured bouquet of what were actually what we call weeds: buttercups, Dame's Rocket, creeping charlie and, of course, dandelions.

There is one consideration that we have overlooked almost completely: The soil at that time was relatively healthy, replete with the micro-organisms necessary to provide nutrients for the plants above, as well as the larger organisms, such as earthworms, to aerate the soil. After 50 years of advertising, we now honestly believe that if there's something we don't like, we can buy some product—even vinegar—apply it, kill the invader and life will be good. We have forgotten that the application of anything in large amounts will kill the soil organisms. They exist in a delicate balance in the soil ecosystem.

To take that one step further, we exist in, and are part of, a delicate ecosystem, one which is sending crisis messages at an increasing and alarming rate. The canaries in the mine are becoming legion. Songbird numbers are down 50% in the last 40 years. If you have ever been on a farm, the beautiful bubbling sound of the bobolink is nearly gone. Frog numbers are declining. Bees and millions of pollinators vital to food crops are disappearing, and the delicate beauty of butterflies is included in that. And now bats are in serious trouble in the northeastern United States. All of these declines have pesticides postulated as part of the story.

We too are canaries in the mines, as several cancers continue to increase in incidence, with no clear etiology: non-Hodgkin's lymphoma, thyroid cancer and multiple myeloma. CFUW agrees with the Canadian Cancer Society that since ornamental use of pesticides has no countervailing health benefit and has the potential to cause harm, we call for a ban on the use of pesticides on lawns and gardens.

In summary, as noted in the very excellent Pesticide Literature Review published by the Ontario College of Family Physicians, it doesn't make sense to prohibit cosmetic pesticides by component or name, but it makes tremendous sense to say that there will be no cosmetic use of pesticides, period. The risk is too great and the benefit superficial at best. The health of our environment and our ecosystem should be our first priority. It makes eminent sense to frame this very important bill in that context.

This would negate the need for "other prescribed uses" currently listed under subsection (2) exceptions. This

subsection is unacceptable and counter to the spirit of the act. If health and safety are the defining parameters of any pesticide use, then there is absolutely no need for any further exceptions beyond agriculture and forestry. This subsection, "Other prescribed uses," as it stands, is a wide-open gate to defining weed and bug infestations as exceptions permitting cosmetic pesticide use, an approach that continues the cycle of pesticide-dependent lawns and gardens, postpones soil and plant ecosystem health that much longer and keeps pesticides in the community, which runs counter to the recommendations from those speaking for our health, and especially for the health of our children and of pregnant and breast-feeding women. It is unacceptable. Should the listing approach be retained, then this subsection, "Other prescribed uses," should be deleted.

Golf courses should be extended limited-exception status for three years, by which time the exception would be terminated. Limited-exception status would entail strict adherence to prescribed conditions as defined by regulation. We would prefer to see the golf course exception denied. Should this not occur, the above recommendation would provide an extended lead time for the courses to adapt.

Our fifth recommendation, and you've heard this one before, as in section 12 of the Smoke-Free Ontario Act, where both municipal pesticide ban by-laws and the Cosmetic Pesticides Ban Act exist, the provision that is more restrictive of non-essential pesticide use and/or sale will prevail.

Throughout Ontario, members of communities ranging from small towns to big cities have researched pesticides, discussed, met in committees, had public meetings and voted on councils. They have taken responsibility for their own health with regard to pesticides and have initiated education programs to assist their citizens in making the transition.

The Supreme Court of Canada has twice upheld the right of municipalities to determine their own pesticide use through municipal bylaws. Just as the government of Ontario wisely did with another public health bill, the Smoke-Free Ontario Act, we urge most strongly the rejection of any provincial override of municipal pesticide bylaws as long as they meet the requirements of the cosmetic pesticides act.

Our sixth recommendation is that a mechanism must be stipulated in the act that will address future product development to accommodate name changes, formula tweaking and development of new products. While we recognize the intent to define pesticide update procedures and protocols through regulations, we would welcome a reference to this intent noted in the bill.

The Chair (Mr. Shafiq Qaadri): You have about 30 seconds left.

Ms. Sheila Clarke: We also highly recommend strong public education programs. We circle back to our 50 years of cosmetic use of pesticides and the spectre of chemically dependent lawns, gardens and gardeners. The medical voices and health authorities have clearly

indicated to us that we need to remove the cosmetic use of pesticides.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Clarke, and thank you, Ms. Harvey, for your deputation on behalf of the Canadian Federation of University Women, Ontario Council, and for your written submissions as well.

CITY OF TORONTO

The Chair (Mr. Shafiq Qaadri): I would now invite Councillor John Filion, chair of the board of health, and Monica Campbell, Toronto Public Health, from the city of Toronto to please come forward. Welcome, colleagues in government, and I invite you to begin now.

Mr. John Filion: Thank you very much. We will be as brief as possible in our formal submission to allow time for questions. On behalf of Mayor Miller, I want to thank the members for inviting the city of Toronto to participate in Bill 64's review.

I will focus my remarks on how the province and the city can better work together to protect our health and environment. Appearing with me is Monica Campbell, of Toronto Public Health, who will speak on other aspects of the bill. We are also providing the committee with a written submission.

First, I want to congratulate the province on bringing this bill forward. With the strong support of the late Dr. Sheela Basrur, Toronto was one of the first cities in Canada to ban the use of cosmetic pesticides, so we are very supportive of the bill's intent.

When Toronto's ground-breaking bylaw was introduced, we were under the old Municipal Act. We faced fierce opposition on the theory that the city lacked jurisdiction, but we successfully defended our bylaw to the Supreme Court.

1530

Since then, under the leadership of Premier McGuinty and then Municipal Affairs Minister Gerretsen, the province enacted the City of Toronto Act. This act provided the city with broader permissive powers, including clear recognition that the province and the city share legislative responsibility for the environment, health, safety and well-being. Bill 64 provides an outstanding opportunity to demonstrate how this shared jurisdiction can work in practice to benefit Toronto and all Ontarians.

The city's current pesticide bylaw protects Toronto at a level tailored to the city's unique population density, environment and economy. While the current bylaw regulates the cosmetic use of pesticides, it does not ban their sale. With Bill 64, the province will fill this gap, which we very much welcome. But unfortunately, Bill 64 goes further: Instead of providing a province-wide floor, it effectively renders the city's bylaw inoperative, weakening the protection it provides our residents.

Again, we fully support measures that make the city's pesticide bylaw even more effective, but Bill 64 must be amended so the city continues to have the ability to ex-

ceed provincial standards in accordance with our unique needs and environment.

Ms. Monica Campbell: As Councillor Filion has said, the city supports the overall intent of Bill 64, and particularly the restrictions on the sale of pesticides, which could complement the city's current efforts to reduce pesticide use. However, the current wording will make the city's existing bylaw inoperative, a bylaw that has been in place for four years, and could result in less health protection than under the current Toronto bylaw. For example, Bill 64 would permit the use and sale of the synthetic chemical weed killer glyphosate, also known by trade names such as Roundup, which is presently restricted in Toronto. Bill 64 could also allow other prescribed uses that Toronto's bylaw currently restricts, such as applying chemical pesticides to control weeds, resulting in greatly increased herbicide use.

It is recommended that Bill 64 be strengthened by allowing more health protective provisions of municipal bylaws to prevail, eliminating the broad exemption for other prescribed uses, not exempting golf courses and other properties, ensuring that exemptions do not allow chemical pesticides to be used to treat common weeds on lawns, and adding glyphosate to the list of restricted active ingredients.

The adoption of strong provincial pesticide legislation will enable the public to reduce it's reliance on traditional chemical pesticides and shift to more environmentally sustainable and healthy ways of maintaining plants and green space.

Thank you for your careful consideration and for any questions you may have.

The Chair (Mr. Shafiq Qaadri): Thank you very much. We'll now invite the PC side to begin, with about two minutes or so per side.

Mr. Peter Shurman: I'd like to continue in the same vein as I did with the city of Ottawa. Do you spray for mosquitoes in Toronto, for West Nile virus?

Ms. Monica Campbell: I wouldn't say that we spray. What we do is larvicide, using a biological pest control agent. These are known as pucks. They are put in catch basins in the sewer system.

Mr. Peter Shurman: Larvicide, however, is a pesticide.

Ms. Monica Campbell: It is a pesticide

Mr. Peter Shurman: Therefore, you would have to agree that under some circumstances, pesticides have a viable use and that in applying them properly, we're protected.

Ms. Monica Campbell: Certainly for health protection. The city of Toronto bylaw has a list of exempted pest control products, and that would include biopesticides, which are in general less toxic.

Mr. Peter Shurman: Why do you single out Roundup very particularly as something negative when, as I understand it, the science says—and the science is what's important to me—that Roundup, when applied, can be toxic, but once it dries up, which is a fairly short duration, it's fairly inert and not harmful to animals or humans?

Ms. Monica Campbell: Again, the concern with a chemical like Roundup, as with some of the other phenoxy herbicides, which in fact seem to be on the list of restricted products under Bill 64, is that it does have some toxicity associated with it. One of the concerns in the city setting is how people actually apply it and do they use it as per label direction. We certainly hear anecdotes all the time that that's not the case.

Again, as others have said before me, it's the issue of controlling its use and not resulting in involuntary exposures of neighbours, given that in a dense urban centre like Toronto, we live very close to each other.

Mr. Peter Shurman: Do you yourself eat only organic foods?

Ms. Monica Campbell: No, I don't.

Mr. Peter Shurman: Therefore, some pesticides would be applied to the foods you eat, leading me to believe that under certain circumstances you think they're okay.

Ms. Monica Campbell: As I understand it, this bill is dealing with what is called cosmetic use, non-essential pesticide use. There seems to be an exemption for agricultural purposes. I believe the city of Toronto would support that direction.

Mr. Peter Shurman: Thank you.

Mr. Peter Tabuns: Thanks very much, John and Monica, for coming here today. The removal of the power for cities to actually set standards is a key issue. Do you have any further words to offer on this issue?

Mr. John Filion: I think it's a huge step backwards. As you well know, Toronto Public Health has initiated a number of very important health issues that at the time were very controversial and then years later came to be adopted by other municipalities, and indeed the entire province in the case of the smoking bylaw we're both so familiar with.

In that example, the province still allowed municipalities to enact stricter bylaws. The province is a large place and I don't think one size fits all. You need to be able to tailor it. We need to be able to continue to initiate. We can't have that taken away from us. I think it would be a huge step backwards to remove some of what we've introduced, and it would set a very bad precedent.

Mr. Peter Tabuns: Are you concerned that this precedent might affect other areas of municipal action?

Mr. John Filion: I don't have a specific area that I'm concerned about, but in general, I'm very concerned. It's the first time I'm aware of that it would happen. I think it would not be a good thing at all.

Mr. Peter Tabuns: Thank you.

The Chair (Mr. Shafiq Qaadri): To the government side.

Ms. Laurel C. Broten: We received submissions with respect to the fact that Bill 64 might create a challenge with respect to the eradication of bedbugs. I know Toronto Public Health is engaged on that file and I was

wondering if you could comment as to whether you share that concern.

Ms. Monica Campbell: I must say I myself am not dealing with the bedbug file. My understanding is that bedbugs are an issue for the indoor use of some kind of pest control product. Certainly in bedbugs, one strategy, and always the first strategy that people reach for, is using heat, like high temperature washing of bed sheets to control the bedbug population. For the city of Toronto, the pesticide bylaw relates only to outdoor use of pesticides. It does not attempt to limit indoor pesticide use. So the bedbug issue would be an indoor situation.

Ms. Laurel C. Broten: Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Questions? Mr. Flynn. Forty-five seconds.

Mr. Kevin Daniel Flynn: Thank you, Councillor Filion. I think I can ask this very quickly. I think we agree that banning the sale is extremely important. That strengthens everyone's bylaw and legislation. My reading of the existing Toronto bylaw is that what is being proposed would be the same in that it's a ban, it prohibits the use. It provides exemptions for golf courses under firm conditions, but currently the city of Toronto allows for insect exemptions. Is that correct?

Mr. John Filion: I think Monica is better able to deal with the technicalities, but certainly the provincial legislation is less restrictive than the city legislation.

Ms. Monica Campbell: How the city of Toronto bylaw deals with reducing pesticide use—and we have evidence over the past four years that pesticide use has come way down, herbicides and insecticides as well. But we have a clause there which is the infestation clause.

The Chair (Mr. Shafiq Qaadri): With respect, Ms. Campbell, I'll have to intervene. I would thank our colleagues in government from the city of Toronto—Councillor Filion, Ms. Campbell and your deputation—for coming forward, as well as your written submission.

1540

CANADIAN CANCER SOCIETY, ONTARIO DIVISION

The Chair (Mr. Shafiq Qaadri): On behalf of the committee, I will now invite our next presenter, Ms. Irene Gallagher, manager of public issues for the Canadian Cancer Society, Ontario Division. As you're taking your seat, I'd just like to recognize the extraordinary work that the Canadian Cancer Society is doing in helping to publicize a number of different important health issues. With that, Ms. Gallagher, I would invite you to please begin.

Ms. Irene Gallagher: Good afternoon, ladies and gentlemen of the standing committee. My name is Irene Gallagher, and I am the manager of public issues at the Ontario division of the Canadian Cancer Society. I would like to begin by thanking you for the opportunity to speak to you today about Bill 64, the Cosmetic Pesticides Ban Act.

As I'm sure you are aware, cancer is a leading health issue in Ontario. This year alone, approximately 63,000 Ontarians will be diagnosed with cancer and 27,300 deaths from cancer will occur. The Canadian Cancer Society is very concerned about the cosmetic use of pesticides, as they offer no countervailing health benefits to society. Many Ontarians share our concerns, as illustrated through a 2007 Oracle poll that indicated 71% of Ontarians support province-wide restrictions on pesticides.

Canadian Cancer Society volunteers and staff have been working with municipal governments and community partners across Ontario since 2002 to prohibit the use of cosmetic pesticides on private lawns and gardens, resulting in 33 municipalities across the province enacting bylaws restricting or prohibiting the use of cosmetic pesticides.

The body of evidence on pesticides and cancer suggests a positive association between exposure to certain pesticides and some types of cancer. Based largely on occupational studies, the list of cancers includes non-Hodgkin's lymphoma and leukemia, and brain, kidney, pancreatic, prostate, lung and breast cancer. There is also strong evidence that children may be more vulnerable than other population groups.

The Canadian Cancer Society applauds the government of Ontario for taking precautionary measures to protect all Ontarians from the health risks associated with the cosmetic use of pesticides on private lawns and gardens. However, the Canadian Cancer Society does want to ensure that the government of Ontario is providing the strongest possible protection to Ontarians through Bill 64.

In order to further strengthen Bill 64, the Canadian Cancer Society recommends the following:

We recommend the removal of section 7.1(5), which renders municipal bylaws inoperative. Municipalities have the right to regulate in areas that impact on public health and the protection of the environment. Although the Canadian Cancer Society is very pleased with the introduction of provincial legislation banning the use and sale of cosmetic pesticides, something we have been advocating for, it should not prevent municipalities from imposing more stringent requirements around protecting the public from exposure to pesticides.

The evidence linking pesticides and cancer is still growing. As the scientific and health communities continue to learn more about the risks associated with exposure to pesticides, municipalities should not be prevented from enacting bylaws stronger than provincial law if the community and city council support stronger protection.

There is reason to believe that this provision in the act would materially weaken current pesticide restrictions in certain municipalities. For instance, glyphosate, the active ingredient in Roundup products, is currently prohibited for use by Toronto bylaws—as mentioned by the previous speakers—in addition to Peterborough and Markham bylaws, but according to the lists published for comment on the Environmental Registry, this would not

be banned under the provincial legislation. Passing Bill 64 without removing section 7.1(5) could potentially discourage municipalities from taking protective action on other health and environment issues.

Current municipal bylaws protect 46% of Ontarians. Municipal bylaws have paved the way for provincial legislation, and municipalities should not lose their power to further protect the health of their citizens from exposure to pesticides.

The society's second recommendation is to remove section 5 of 7.1(2), "Other prescribed uses." Bill 64 already includes all necessary exemptions, including uses related to promoting health and safety. No additional exemptions are required. This section has the potential to authorize exemptions that would undermine the whole intent of the legislation, which is protecting the health of Ontarians.

As previously stated, the Canadian Cancer Society is very pleased with the government of Ontario's decision to ban not only the use but also the sale of cosmetic pesticides. Banning the sale and retail display of pesticides provincially will give Ontarians equal protection and help eliminate any potential enforcement challenges. However, the society recommends structuring the ban on sale with reference to a white list of products authorized for sale and use, and prohibiting the sale of all other pesticides. The blacklist approach, as used in Quebec, lists 20 active ingredients that are found in specific prohibited products. As a result, other products harmful to public health are still available for sale and use in Quebec.

The province of Ontario should prohibit the sale of all pesticides for cosmetic purposes on private lawns and gardens, except for low-impact pesticides. This approach would not only facilitate enforcement but also expedite a change in citizens' habits.

If the government does choose to continue with a blacklist approach, then a plan to develop an efficient process for adding new pesticides to the list of prohibited products is essential. Without a plan in place, it leaves the door open for new, harmful pesticides to be developed and used by Ontarians.

Lastly, the society would like to commend the government for their commitment to implement Bill 64 by spring 2009. During the next year, it will be essential that the new legislation mandate publicity of the ban and public education about non-chemical alternatives to pesticides, and that it include effective mechanisms for enforcement.

Implementation of these recommendations will further strengthen Bill 64 and provide the strongest protection to Ontarians from the health risks associated with the cosmetic use of pesticides on private lawns and gardens.

The government of Ontario has already demonstrated leadership in cancer prevention by passing the Smoke-Free Ontario Act and a province-wide colorectal cancer screening program. The Canadian Cancer Society looks forward to seeing the government of Ontario continue its leadership in cancer prevention by passing and imple-

menting the strongest possible cosmetic pesticide legislation.

I would like to thank the members of the standing committee for your time and consideration given to Bill 64.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Gallagher. We'll begin with the NDP side. Mr. Tabuns—about a minute.

Mr. Peter Tabuns: You expressed concern about

glyphosate. Could you enlarge on that, please?

Ms. Irene Gallagher: I'll just build on what the previous speakers spoke about, that it's an example of how, if current municipal bylaws are rendered inoperative by the provincial legislation, they may weaken current restrictions that are in place through bylaws. For example, glyphosate is on the list of prohibited products in Toronto, but not on the current list posted on the Environmental Registry with regard to the provincial legislation.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Kevin Daniel Flynn: As always, thank you for the presentation from the cancer society. I think it's an organization that people do really pay attention to.

In your experience, I know that you represent the Ontario division of the cancer society. Other jurisdictions throughout Canada and the proposed legislation: How would you rank that in its current state today?

Ms. Irene Gallagher: The current proposed legislation in Ontario?

Mr. Kevin Daniel Flynn: What we have before us today.

Ms. Irene Gallagher: It's the strongest in Canada that's been presented and, as I understand it, one of the strongest in North America. Banning the sale of cosmetic pesticides is significant and really adds to the enforcement as well as the health protection of Ontarians.

Municipal bylaws: One piece that they were not able to do was ban the sale, and that is why the Canadian Cancer Society was advocating for a provincial ban on sale, to add that value to the current municipal bylaws.

The Chair (Mr. Shafiq Qaadri): To the PC side.

Ms. Laurie Scott: Thank you very much for appearing here. We just have a short time. When you mentioned specific active ingredients that are cancer-causing, I wonder if you could produce that list of the ingredients that directly cause cancer.

Ms. Irene Gallagher: As I'm not a scientist, I wouldn't want to speak to those specific ingredients. That's not my role with the Canadian Cancer Society. But I can give you the sources of evidence that the Canadian Cancer Society does review in developing our positions on pesticides. They come from Cancer Health Effects of Pesticides: Systematic Review, in Canadian Family Physician, 2007; the 2004 Ontario College of Family Physicians' Pesticide Literature Review; the International Agency for Research on Cancer; and the US National Toxicology Program's Report on Carcinogens.

Upon review of the body of evidence—

Ms. Laurie Scott: Nothing from Health Canada, though, was on your list.

Ms. Irene Gallagher: Not in the list that I have right now, but it is part of—those are just the specifics that we pulled with reference to the presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Gallagher, for your deputation on behalf of the Canadian Cancer Society.

1550

CROPLIFE CANADA

The Chair (Mr. Shafiq Qaadri): I would now invite forward our next presenter, President Hepworth, as well as Peter MacLeod, executive director of crop protection chemistry for CropLife Canada. Thank you as well for your very elegant and colourful submission, which is now being distributed. Gentlemen, I would invite you now to begin the deputation.

Mr. Lorne Hepworth: Thank you, Mr. Chairman, and members of the committee. I'll just touch on some of the slides that are in your presentation in the interests of time.

CropLife Canada represents the companies, the innovators, responsible for the manufacturing and distribution of pesticides as well as plant biotechnology seeds here in Canada for the agricultural market, the urban market-place and the public health marketplace.

We represent, as you see in the picture of the various logos there, companies that are very large multinationals and some of the more moderately sized Canadian companies, and it includes the two largest companies in Canada that would be responsible for about 90% of all the pesticide sales into the retail market.

I don't think we're unlike any other Ontarian. We too as an industry—our members, our companies, the staff of our companies—share the goal of doing what we can to further reduce any risk from pesticide use. We want to capture the benefits, but we too do not want to have any unnecessary risk, any unacceptable risk, to the public's health or the environment. We have children, we have grandchildren, we have pets, and we like to play on the lawns and on the sports fields too, so I think from that standpoint we share in the goal of this legislation and the committee's approach to it.

The bottom line, however, is that we also support the safe, proper and responsible use of Health-Canada-approved and -registered pesticides when their use is deemed essential.

We've heard a lot of questions about cancer, and I'd like to pick up that theme and specifically speak to four or five points around that.

First of all, Health Canada: Before they will approve for use and provide a registration for any pesticide in Canada, part of their safety assessment includes the risk related to cancer.

Second, the World Health Organization: "Given the lack of evidence linking pesticide exposure to human cancer risk, no cases of cancer can be attributed to either

occupational or non-occupational exposure to this group of agents." The American Institute for Cancer Research found no evidence that normal exposure to trace amounts of pesticides increased the likelihood of people developing cancer.

Finally, you heard a reference just a moment ago to what's commonly called IARC, the International Agency for Research on Cancer. I would just make the point, as we underline here in our presentation, that no lawn and garden pesticide used in Canada has ever been classified as cancer-causing by any regulatory agency in the world.

You've also heard a fair bit today about the Ontario College of Family Physicians' literature review, and I'm like you. Doctors are highly respected in our communities. I respect them, but we do respectfully differ with the opinions and conclusions they drew from the literature review. This was not a safety assessment. This was not an experimental test. This was a review of various pieces of literature.

As you might expect, when this literature review was released, it resonated around the world because, if they were right, if the Ontario College of Family Physicians was right, Health Canada and virtually every other regulatory agency in the world was wrong. So this report resonated around the world, and that's why you see the United Kingdom's Pesticides Safety Directorate coming out and questioning the report's conclusions and their veracity. That's why you see the UK Royal Commission on Environmental Pollution raising questions about the veracity of the report, the cherry-picking that went on in the report and the biases in the report.

As well, you can expect that in Health Canada—the day the report came out, was the minister questioned in the House about this? The answer is yes. Did his department stand back and do nothing? The answer is no, because if there was an issue here, the Minister of Health would want to respond—I think he would rightfully know—and the department would want to respond. Basically, their review is no different from anybody else's. They're aware of these epidemiological studies and there's nothing in there, a regulatory regime, that they felt needed to be changed.

I thought it was important to get those facts about that review, which is so often referenced. We ourselves commissioned Cantox Health Sciences to do a review of the literature review, and they too found the same issues of bias in reporting, cherry-picking of various studies etc.

A lot is heard, Mr. Chairman and members of the committee, about the risks of pesticides. Why do we have them? We have them because they can bring great benefit to society. We heard discussions earlier in today's committee hearings about the valuable role of larvicides, which are pesticides, used to control mosquitoes that can cause West Nile virus. In my own community we've had spraying with bacillus thuringiensis, another pesticide to control insect infestations. I know that in some of the ridings that are represented here, there are insect infestations that can damage and ruin the green canopy in the trees in our neighbourhood.

A lot is heard about the risks, and very little about the benefits, of the pesticides. We've made a point of listing some of those benefits here in our paper, such as the cooling effects of a tree canopy, the playing surfaces—being safe on our sports fields, oxygen production, a carbon sink, reduced noise pollution, and a sanctuary for birds and other wildlife.

I would like to make a few comments about the bill in terms of our recommendations. We would recommend that the committee stand on international, peer-reviewed science as we work through the bill and the regulations—not anecdotes, not reports with only half-truths and half the information in them and not on polls, but science. That's the only way the innovative companies that we represent are going to continue to bring products to the marketplace here in Canada: if they know they have a science-based, predicable regulatory system. Our first recommendation is to stand on science.

The second issue is the business of pre-empting the municipalities. We support one set of regulations, one standard for the entire province. We just think it's absolute chaos out there now with the various municipalities. In some you can spray in July and August and in some you can't; in some you can do it on golf courses and in some you can't; some products you can use here and some you can't use there. It's absolute chaos out there and, once again, it's not in the public's interest.

The third point, maybe not in the bill but which we would support, is the fact that there needs to be a phase-in. Quebec phased it in over three years. Municipalities typically phased their bylaws in over three years. Quite frankly, trying to phase this in in the spring of 2009 will cause business chaos as well as, I think, some steward-ship issues in terms of what to with a product in the marketplace that can't be used or sold, and some of it specifically labelled for Ontario.

We support the elimination of non-essential use, which is the definition of "cosmetic" in the bill, whether it's for lawns and gardens, golf courses, farming, public health uses. We don't support non-essential use no matter what the sector.

Finally, there are three or four plates at the end of our presentation. If anybody still wonders about the benefits these properties can bring to a landscape in terms of protecting it from things like cinch bugs and grubs and gypsy moths, you only have to look at the last three plates that we've appended here.

The Chair (Mr. Shafiq Qaadri): Thank you. We have about 30 seconds each. For the government side, Mr. Flynn.

Mr. Kevin Daniel Flynn: In 30 seconds all I can say is thank you very much for coming. Certainly there are a number of opinions that we're hearing here today. Thank you for yours.

The Chair (Mr. Shafiq Qaadri): Mr. Shurman.

Mr. Peter Shurman: If pesticides disappeared tomorrow, give me a couple of results—all pesticides gone.

Mr. Lorne Hepworth: On the agriculture side you'd probably have a 30% to 40% loss in food production. In the urban communities, given the infestations with things like gypsy moths, you could lose a lot of your trees and tree cover. You have lawns where you potentially get grub infestations. You can lose a lawn literally overnight. I think of the golf course folks who are coming before you. I'm not sure, but they would tell you that you can lose a golf green overnight as a result of a fungal infestation. Those are some of the immediate and longer-term results of infestations.

Mr. Peter Shurman: The bottom line is—

The Chair (Mr. Shafiq Qaadri): Thank you Mr. Shurman. Mr. Tabuns.

Mr. Peter Tabuns: What do you say is a non-essential use?

Mr. Lorne Hepworth: One of the plates I didn't go over, but I would just pick it up. What is non-essential? The use of a pesticide where the application is not warranted, when pest numbers do not warrant an application; for example, when you should be using a spot spraying as opposed to a broadcast application. It doesn't make sense if you've only got a few spots of weeds to go in and broadcast a herbicide across the entire lawn, and when pest damage does critically impact plant health. There also can be a case, for example, I think in the case of grubs, where you may need to use them as a preventive measure.

The Chair (Mr. Shafiq Qaadri): Thank you, gentlemen, for your deputation on behalf of CropLife Canada.

DAVID SUZUKI FOUNDATION

The Chair (Mr. Shafiq Qaadri): We'll now move to our next presenter, who is coming to us by teleconference, Lisa Gue, an environmental health policy analyst with the David Suzuki Foundation, who is speaking to us from Ottawa. Ms. Gue, as you've seen you have 10 minutes in which to make your deputation. Are you there?

Ms. Lisa Gue: Yes, I am. Thank you, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Great. If our tech people can do something with the volume, I'll invite you to begin now.

1600

Ms. Lisa Gue: Thank you, Mr. Chairman and members of the committee, for this opportunity to offer comments on Bill 64 on behalf of the David Suzuki Foundation. The David Suzuki Foundation is a national non-profit environmental organization founded in 1990. We rely on science and education to promote nature conservation and sustainability.

The foundation is supported by more than 40,000 members, including 18,000 here in Ontario. We have offices in Toronto and Ottawa, in addition to our main office in Vancouver. I myself work out of the Ottawa office as the foundation's environmental health policy analyst.

The David Suzuki Foundation welcomes the introduction of legislation to ban the so-called cosmetic use of pesticides in Ontario. The use of pesticides to improve the appearance of lawns, gardens, parks and schoolyards poses unnecessary risks to human health and the environment. I believe you have already heard from the Ontario College of Family Physicians, who have documented the weight of evidence pointing to serious health illnesses associated with chronic pesticide exposure.

Our own investigation of the incidence of acute pesticide poisoning in Canada found more than 1,600 cases in Ontario in one year. In nearly half of these cases, the

victims were children under the age of six.

In addition to human health risks, pesticides also threaten pollinators, the helpful insects essential to our food supply. Even small amounts of certain pesticides are known to affect bee longevity, memory, navigation and foraging abilities. Pesticide use in Canada has contributed to declines in native bee populations, most notably in

Canada's honey bee population.

While we therefore support the overall direction of this legislation, I'd like to address two important areas in which Bill 64 should be strengthened. Firstly, the clause that would render municipal bylaws inoperative should be struck. Interfering with municipal powers to regulate the use of pesticides to protect public health is unnecessary and potentially damaging. A consistent standard across the province can be achieved without disabling municipal powers if provincial requirements are sufficiently protective. On the other hand, if the scope of provincial requirements leaves room for complementary municipal action, the province should support municipal actions that go above and beyond the province-wide ban.

As currently proposed, however, Bill 64 would undermine specific pesticide restrictions in certain municipalities. For instance, glyphosate, the active ingredient in Roundup product, is currently prohibited for use by the Toronto, Peterborough and Markham bylaws but would not be banned under the provincial legislation, according to the list published for comment on the Environmental Registry.

Bill 64 also includes a permanent exemption for golf courses. Why prohibit a future municipal initiative to

reduce pesticide use on golf courses?

I note that in Quebec, where provincial regulations prohibiting the use and sale of certain pesticides were adopted in 2003, municipal pesticide bylaws remain operative, and 91 Quebec municipalities have adopted pesticide bylaws that complement the provincial regulation. This approach is preferable.

Bill 64 has been announced as a measure designed to protect public health and the environment. It must not have the effect of weakening current municipal pesticide policies or pre-empting more protective municipal requirements in the future.

Secondly, the bill authorizes exceptions for golf courses and other proscribed uses that could be exploited as loopholes. These clauses should be deleted or, at a minimum, tightly constrained. To the extent that golf

courses require special consideration, this should more properly take the form of a grace period, with a specified expiry date by which compliance with the ban must be achieved. This would give the industry time to adapt and transition, while being consistent with the intent of the legislation to minimize unnecessary pesticide use. A permanent legislated exception for golf courses is not warranted.

Similarly, the open-ended exemption for other proscribed uses is unnecessary and, if broadly used, could undermine the effectiveness of the pesticide ban. Exemptions should be allowed only when necessary to protect public health and safety. This power is separately authorized in the bill. The power to accept other proscribed uses should at least be qualified to require that any exceptions authorized under this clause be time-limited and subject to legislative oversight.

To conclude, on a positive note, we are pleased that Bill 64 will prohibit the sale of pesticides marketed for cosmetic applications, as well as the use of these products. Restrictions on sales will add value to municipal bylaws already in place, which prohibit the use of pesticides on lawns and gardens. It will facilitate enforcement and promote the necessary shift to non-toxic gardening products and practices.

With passage of Bill 64, Ontario will become the second Canadian province to restrict the use and sale of cosmetic pesticides. Quebec, of course, was the first, with a province-wide ban on many lawn pesticides phased in between 2003 and 2006. The Quebec experience clearly indicates the effectiveness of provincial action in this area. Statistics Canada reports that the number of Quebec households using pesticides decreased by half between 1994 and 2005, dropping from 30% to just 15%, while in Ontario, pesticide use remained constant at 34% over the same period.

Ontario could and should set a new standard for implementing a precautionary approach to regulating lawn and garden pesticides. I urge the committee to work co-operatively to address the issues around complementary municipal bylaws and loopholes that would allow for broad exemptions. We hope to see Bill 64 deliver a robust framework for minimizing unnecessary risks to health and the environment from cosmetic pesticides.

Thank you again for this opportunity to provide comments.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Gue. A minute per side, approximately. Mr. Shurman.

Mr. Peter Shurman: Ms. Gue, would you favour province-wide hearings on this issue?

Ms. Lisa Gue: We know there is broad support from across the province for this legislation. I leave it to the committee to determine the best route forward for hearings. I certainly appreciate the opportunity to participate today by teleconference. I think that with the opportunity for comment that's been provided through the Environmental Registry, that probably hearings in Toronto are sufficient. But I would certainly not oppose broader hearings either.

Mr. Peter Shurman: Okay, thank you for the answer to that question. I want to get one more in. You said 1,600 people in one year suffered acute poisoning from pesticides, half of them children. Was that bad storage or bad use?

Ms. Lisa Gue: Unfortunately, data is quite scarce. All we're able to report on is the broad tally of cases reported to poison control—

Mr. Peter Shurman: So you don't really know.

Ms. Lisa Gue: No, but in either case, it does highlight the unnecessary risk associated with having pesticides in the house.

Mr. Peter Shurman: Thank you.

Mr. Peter Tabuns: Lisa, could you speak briefly to the issues around glyphosate and your concerns about its exemption in this legislation?

Ms. Lisa Gue: As the committee will be aware, the specific pesticides and pesticide-active ingredients to be banned will be determined later through regulation, but the concern that I was highlighting with glyphosate is that it is one of the chemicals subject to municipal bans in at least three cities right now and it hasn't found its way onto the proposed list for a province-wide ban. So if the provincial legislation moves forward with a clause that renders bylaws inoperative, glyphosate—up to now banned in Toronto, Peterborough and Markham—would essentially be allowed for use and thereby weaken the protection in that respect afforded to those major cities.

Mr. Kevin Daniel Flynn: Thank you, Lisa, for joining us today. We've heard a lot of suggestions from a variety of groups, a variety of opinions. I'm reading a letter of yours that appeared in the Kingston Whig-Standard in March 12. The one paragraph I thought sort of hit the nail on the head says, "Ontario has the power to regulate pesticide sales as well, whereas municipal bylaws only regulate pesticide use. Pulling the prohibited products from Ontario store shelves is the best way to make sure they aren't used." Do you still feel that way?

Ms. Lisa Gue: I absolutely stand by that statement. That's the major advantage of the provincial legislation. I think this is a situation where we can have our cake and eat it too. Again, I would urge the committee to consider amendments that would allow municipal use bylaws to go further than the provincial sales ban.

Mr. Kevin Daniel Flynn: Thank you, Lisa.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Gue, for your deputation on behalf of the David Suzuki Foundation in Ottawa.

1610

SCOTTS CANADA LTD.

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to come forward, and that is Ms. Fairbrother, the director of regulatory and stakeholder relations for Scotts Canada. I'd invite you to begin now.

Ms. Jill Fairbrother: Thank you, Dr. Qaadri, and distinguished members of the committee. Scotts is the world's leading provider of lawn and garden products for

the homeowner, the do-it-yourself lawn and garden person. We make conventional products like Roundup, which has been discussed here extensively today, as well as natural alternatives. When this issue first came about, about seven years ago, Scotts developed a line of lawn and garden products called EcoSense, which are based on the active ingredients that the municipal bylaws prefer.

That said, I think it's important to point out that the only reason that Roundup is banned by municipalities with bylaws is because those bylaws only permit naturally derived ingredients to be used. Roundup is used extensively by conservation authorities and zoos around the world to control invasive vegetation because it is absolutely benign when it comes to human health and animal health. It's recognized by Health Canada as a reduced risk—that is, an extremely low-toxicity herbicide—and that's why it's the herbicide of choice in many delicate ecosystems.

Scotts spends significant dollars to educate homeowners on best practices for lawn and garden care. We promote best practices like over-seeding, use of a lawn soil, and regular feeding for healthy lawns that use less water and are thicker and more able to crowd out weeds.

This government, in its last term, brought in widely heralded legislation to protect the greenbelt, and we agree with the protection of healthy green space. It makes an incredible contribution to our environment by cooling the environment, reducing erosion, reducing runoff and providing the oxygen we breathe.

With respect to Bill 64, we understand that eliminating the non-essential use of pesticides is key for this government, and we support that goal. That's what our education for homeowners has been focused on: teaching people to have a healthy lawn and garden without pesticides. But when it's essential to protect health or to protect landscape, to protect your property and the health of your family, we believe that it's important that people have tools available to help them do so.

What does that mean? Essential use, to us, means that when invasive pests are present at such a level that the risk of injury, allergies, bites, stings or the entire loss of a plant, tree, shrub or other landscape is likely, then it's reasonable to take action to care for your health and that landscape.

We believe that Bill 64 provides a framework for groundbreaking change. While Health Canada and every other OECD country that has a regulatory body that governs pesticides and the World Health Organization all agree that safe-on-lawns, safe-on-food pesticides don't pose any unreasonable risk to health or the environment, we recognize that this government's going to bring about change, and that's change that's supported by many Ontarians. We're anxious to work with the government on achieving the transition that will bring about positive change and not result in any unintended consequences. We're very concerned that people don't resort to homebrewed pesticide recipes, in the view that they may be safer than products that are on store shelves, when those

products that are on store shelves have been thoroughly evaluated by Health Canada.

The doctors and nurses who appeared here earlier referred to Dr. Sheela Basrur and her report to the city of Toronto, and I would urge members of this committee to read that report. Dr. Basrur recommended a multistakeholder approach that focused on education to achieve a 90% reduction in the amount of pesticides used in the city of Toronto. She did not recommend a bylaw; she recommended a three-year education approach. I would urge members of this committee to read that report since it was referenced here today.

I'll stop now and take any questions you may have

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Fairbrother. We have a generous amount of time. We'll begin with Mr. Tabuns—about two minutes or so.

Mr. Peter Tabuns: In your submission, you are essentially arguing for a greater range of exemptions for the use of pesticides, using them where there are problems with potential bites or stings, stinging nettles on a lawn etc.

Ms. Jill Fairbrother: Well, the bill calls for exemptions to protect health and safety, and then other exemptions as required. I believe that there are levels of infestation at which loss of landscape or risk of health is imminent and that those are the exemptions that make sense.

Mr. Peter Tabuns: So you would say that there should be an exemption in this act so that if a lawn was threatened with grubs, people would be able to spray?

Ms. Jill Fairbrother: Yes.

Mr. Peter Tabuns: I understand. Thank you.

The Chair (Mr. Shafiq Qaadri): The government side.

Mr. Kevin Daniel Flynn: Thank you, Jill, for the presentation today. Is Roundup a product of Scotts or do you have a product that's similar to Roundup?

Ms. Jill Fairbrother: No, we make Roundup. We sell Roundup and the acetic acid, which is the natural alternative. We make them both.

Mr. Kevin Daniel Flynn: Okay, wonderful. Scotts is a brand that I think most of us in this room would recognize. When you go into a Home Depot, quite often they advertise quite heavily. I was in one the other day and saw a wide range of products and I didn't see any pesticides at all. I thought that was interesting. I was wondering if you could tell us, are you seeing a change in consumer habits when it comes to a demand for environmentally cleaner products, if I can put it that way?

Ms. Jill Fairbrother: Certainly we are. If you were in a Home Depot, you would have seen pesticides. You would have seen, for example, the Scotts EcoSense line. They're natural alternatives; they're still pesticides and they're still registered with Health Canada. We are working at finding alternatives, particularly for weeds in lawns and insect infestations, as Mr. Tabuns asked about. We're working on the new reduced-risk chemistry. It'll be registered with Health Canada and we hope that, when the time comes, it will be accepted by Ontario.

Mr. Kevin Daniel Flynn: How close are you to introducing them to the public now?

Ms. Jill Fairbrother: We've introduced many alternatives already. With respect to weed control on lawns, it may be another year or two.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Ms. Scott.

Ms. Laurie Scott: Thank you very much for appearing here before us. We were talking about Roundup and its natural alternative, acetic acid. I just wonder if you could expand a little bit. Sometimes it's more harmful to the person to use the natural alternative than it is, in this case, to use Roundup.

Ms. Jill Fairbrother: Recognizing that Health Canada has evaluated everything and prescribes what's on the label of every product, Roundup and acetic acid is one example where there are warnings on the acetic acid that it's corrosive, warnings that it can be harmful to eyes. Those warnings are not required on a Roundup label, so it's one where the toxicity of the Roundup is lower than the acetic acid, or the associated risks are lower with the synthetic alternative.

Ms. Laurie Scott: Thank you for that. Also, I know that the 2004 report by the Ontario College of Family Physicians was brought up a lot today. Do you feel that that report was based on scientific evidence?

Ms. Jill Fairbrother: I believe that it was based on a selection of epidemiological evidence, but I don't believe that it was based on the weight of scientific evidence that is available globally. The World Health Organization is probably the most respected body globally, and they've made the determination that whether you're talking about lawn and garden use or use on our food, pesticides are safe.

Ms. Laurie Scott: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Shurman.

Mr. Peter Shurman: I'm listening to the presentations today and I'm hearing science at the municipal level, science at the provincial level and very little about science at the national or even the international level. Can you give me some idea of where you get your science from, in terms of definitive effect—cause and effect—on the use of your products?

Ms. Jill Fairbrother: Yes. We rely on the body of evidence that's available globally. As a company, we would use active ingredients that are manufactured and registered with Health Canada. They're made by companies like Bayer, Dow and DuPont, so they have those active ingredients tested and registered with Health Canada and other regulators around the world. When they're then formulated in small amounts, I would say—for example, a typical bottle of Killex, which is a herbicide with which you would spot-spray weeds on your lawn—

The Chair (Mr. Shafiq Qaadri): Ms. Fairbrother, with respect, I will have to intervene there. Thank you, Mr. Shurman, for your concluding question, and thank you for your deputation on behalf of Scotts Canada.

MREP COMMUNICATIONS

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter, Jeffrey Lowes, director of government and industrial and relations for MREP Communications. Mr. Lowes, you've seen the protocol. You have 10 minutes in which to make your presentation, beginning now.

Mr. Jeffrey Lowes: Thank you, Chair and members of the committee. My name is Jeffrey Lowes. I'm principal investigator for MREP Communications. We were asked by applicators across the province, and now across the country, to review current and pending municipal bylaws. In the process of reviewing the bylaws, they asked us to review the information that has been submitted, and I've heard a lot of the information submitted again today.

1620

Concerns about water supply would be one. Every jurisdiction has a municipal bylaw here in Ontario. We've drawn out the Clean Water Act and reviewed their water reports for the past two years where they do actually test for pesticides, and to date we haven't found a municipality that has any pesticides in the raw water, sewage water or tap water. There have been a lot of points made, including the study in Mexico, which talked about children's and birth defects. We reviewed that study, and in the process of looking at the medical evidence and how it was actually conducted, what was not taken into account was the actual water, food, diet and education associated with that study. So it was very superficial in drawing conclusions.

As far as the court cases, a lot of people make reference that they've defended their bylaws all the way up to the Supreme Court of Canada. What they've defended is the administrative law side of the equation, and the appellate judge agreed with CropLife Canada in their presentation that they had no scientific basis other than the fact that they had the authority to proceed with the bylaw. So what we're doing is, we're reviewing the scientific evidence as presented.

In Kingston, in reviewing their bylaw, the city of Kingston proposed a survey to their members throughout the city. They had 2,200 people respond, which is twice the sampling they had here in the city of Toronto. Only 45% felt they needed a bylaw, but 83% that used pesticides used the services of a professional applicator. Nowhere in that survey was there support for a pesticide bylaw. The councillors deemed the survey as being unscientific, ignored the results and proceeded with a bylaw.

Given the support in proceeding with the bylaw in the city of Kingston, an individual came and presented. In the city minutes he was listed as Dr. Gideon Forman, executive director of the Canadian Association of Physicians for the Environment. Mr. Gideon Forman had to correct members of council that he is not a doctor, but he does represent doctors. To date, we still don't understand how many doctors he actually does represent within his group, but in his presentation he cited a study written by

the Canadian Paediatric Society on the detrimental effects of 2,4-D. We contacted the Canadian Paediatric Society and asked them about the study. They indicated that, yes, they did publish the study in their report, but they did not authorize the report and they did notify CAPE to not use their name.

Again today it was inferred that the study was done by the Canadian Paediatric Society, and it was not. The doctors listed on that report were indicated as working for the Children's Hospital of Eastern Ontario. We contacted the Children's Hospital of Eastern Ontario and asked if those doctors were on staff; they were not.

This is what has transpired in a majority of the municipalities across Ontario: Peterborough, Kingston, Gananoque. In the preamble to Gananoque's bylaw they indicated that they had a medical report that justified their bylaw. We contacted the mayor and asked for a copy of the medical report. They did not have one.

In Cornwall, they presented a draft bylaw on January 9. We offered to speak to it on January 11, and it was indicated that our input was not required as applicators.

The process at the municipal level has been extremely weighted towards the activists, and we see Bill 64 as correcting this issue, as taking the authority away from municipalities that don't understand the science surrounding the issue.

In reviewing what's been presented today, we'll supply you with a written report based on the comments from the videotape that we have and we'll submit that by Friday noon.

I'm open for questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Lowes. We have about two minutes per side, beginning with the government.

Mr. Kevin Daniel Flynn: Thank you, Mr. Lowes, for the presentation. Your clients—I was wondering who MREP is. You're a company and you represent, I guess, other companies.

Mr. Jeffrey Lowes: I represent applicators that use

both organic and synthetic products.

Mr. Kevin Daniel Flynn: The applicators that have been in to see me at my constituency office have been supportive of the legislation, so is there a number of the industry you represent, a percentage or a group, that doesn't agree with the people that have been to see me, obviously?

Mr. Jeffrey Lowes: I think they're supportive of the legislation, but in addition they're supportive of raising the standards within the industry. We have access to products currently, and we would like to see the level of training provided to the applicators increased and the IPM standards standardized across the province in conjunction with other provinces across the country. In the formation we've contacted the Ministry of the Environment and the Ministry of Natural Resources in other jurisdictions asking whether or not it would be palatable to institute an IPM standards council across Canada.

Mr. Kevin Daniel Flynn: Would I know any of these companies? Would these be companies that I would recognize?

Mr. Jeffrey Lowes: Applicators?

Mr. Kevin Daniel Flynn: Yes.

Mr. Jeffrey Lowes: Yes, you would.

Mr. Kevin Daniel Flynn: And how many of them would there be?

Mr. Jeffrey Lowes: In Ontario or across Canada?

Mr. Kevin Daniel Flynn: Well, how many would you

Mr. Jeffrey Lowes: In Ontario, right now, I think we're at 86.

Mr. Kevin Daniel Flynn: And those are individual companies or franchises?

Mr. Jeffrey Lowes: Individual companies. Some of them are franchises. There are three different, distinct groups. There are family-owned businesses, there are businesses that are predominantly owned by women and there are franchise companies.

Mr. Kevin Daniel Flynn: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Mr. Shurman of the PC side.

Mr. Peter Shurman: Just a brief story and your reaction to it: A couple of years ago before the Toronto bylaw, I owned a single-family dwelling and I used one of the make-your-lawn-pretty companies—I forget the name—and my lawn was beautiful. Then the bylaw came in and they used something else, and the lawn turned to garbage. I was disappointed, but I understood that there was a bylaw. What's in that? What's used now?

Mr. Jeffrey Lowes: I have toxicologists on staff who would be happy to speak to this if this committee decides to take this issue further, but we will supply submissions on some of the products out there. Just because you have a bylaw doesn't mean that the product is not going to be used. I know there were implications here that said Quebec reduced their pesticide use by 50%. Unfortunately, New York and Maine, which were in the bottom 50 states for pesticides sales, are now in the top 10.

Mr. Peter Shurman: How many companies operate under the Organic Landscape Alliance?

Mr. Jeffrey Lowes: The Organic Landscape Alliance—we know of 15; with franchises, possibly 20 to 25.

Mr. Peter Shurman: Would you benefit or suffer from a provincial ban of these pesticides?

Mr. Jeffrey Lowes: The individual companies and the franchises, like the ones that operated in Peterborough, went to zero. Companies that work under the Organic Landscape Alliance, because their products benefit from bans, were able to sell franchises in those jurisdictions.

Mr. Peter Shurman: Okay. If the products could be used safely, should it only be professionals who use them or anyone who's following directions?

Mr. Jeffrey Lowes: We advocate that only products approved by Health Canada be used, and only by professionals.

Mr. Peter Shurman: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Shurman. Mr. Tabuns.

Mr. Peter Tabuns: In your comments about municipal bylaws, are you suggesting that medical officers of health have not been credible in their recommendations that pesticides be restricted or banned?

Mr. Jeffrey Lowes: Most of the bans carry an exempt product list, and most of the products on that list are not registered with Health Canada. So what you're asking the lawn care operators to do is to break federal and provincial laws in order to operate underneath the bylaw.

Mr. Peter Tabuns: Are you saying that medical officers of health are not credible when they bring forward these bylaws?

Mr. Jeffrey Lowes: I'm saying that they're misguided in the information that they've provided to their councils.

Mr. Peter Tabuns: That's all I need; thanks.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Tabuns. And thank you, Mr. Lowes, for your deputation on behalf of applicators and MREP Communications.

PEST MANAGEMENT REGULATORY AGENCY

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter, Mr. Lindsay Hanson, of the Pest Management Regulatory Agency. I invite you to begin now, Mr. Hanson.

Mr. Lindsay Hanson: Thank you, Mr. Chair, and thank you to the committee. My name is Lindsay Hanson. I work for the Pest Management Regulatory Agency, a branch of Health Canada. I have a slide deck in front of you that may be a bit long for 10 minutes, so I will endeavour to shorten it up and leave some time for questions.

Health Canada's priorities are the health and safety of Canadians and their food supply. This primary mandate is applied when approving pesticides for use in Canada. The primary objective under the Pest Control Products Act is to prevent unacceptable risk to people and the environment from the use of pest control products. We also enable users to access pest management tools, namely, those pest control products and sustainable pest management strategies.

There's a slide that shows the distribution of responsibilities with respect to pesticide regulation in Canada. At the federal level, which is where I work, are pesticide registration and the re-evaluation process. Within that are the health, environment and value assessments that are conducted by us. We also have a compliance and enforcement arm, and a group that looks at sustainable strategies with respect to agriculture, urban and other sectors.

1630

Some of the responsibilities listed under the provincial banner include transportation, sale, use, storage and disposal; training, certification and licensing; and regulation for further conditions on use. I have also listed the municipalities where bylaws for further conditions can be put in place where authority exists.

Under the federal responsibilities, we regulate all pest control products imported into, sold or used in Canada under the Pest Control Products Act. This includes the pre-market review, which is the scientific assessment that we do; post-registration compliance and monitoring; and the re-evaluation process, which is a scientific assessment every 15 years.

The pre-market assessment is an area that includes over 200 studies that are required to register a new product in Canada. The particular areas we examine look at health assessment, those being the toxicological evaluation; the occupational and bystander exposure assessments; and food residue and exposure assessments.

We also do similar work under the environmental assessment banner, in terms of looking at the environmental toxicology and the environmental chemistry and fate. We also look at the value assessment, efficacy, competitiveness and sustainability of the use of that product.

There is a strong reliance on a comprehensive body of scientific evidence and scientific methods. It reflects approaches of other regulatory bodies around the world. It's a systematic application of science to support regulatory decisions. We have a large number of in-house qualified scientists with a wide range of expertise. I work with approximately 350 scientists back in Ottawa. The entire agency has a staff of about 500 people.

The data requirements to register a product in Canada are extensive. These are the scientific studies that are required in order to assess hazards and risks to health and the environment. These are conducted according to OECD guidelines for study protocols.

We have a program within Health Canada under the Pest Management Regulatory Agency which talks about healthy lawn strategy. We also have a re-evaluation program that looks specifically at the priority re-evaluation of those products most commonly used in the urban environment. The healthy lawn strategy was to reduce reliance on pesticide use for lawn care through the application of integrated pest management principles, emphasis on pest prevention and application of pesticides only when necessary.

Under the priority re-evaluation, we looked at the most common active ingredients that are used in lawn care. Those included the insecticides chlorpyrifos, diazinon, carbaryl and malathion and the herbicides 2,4-D, dicamba and mecoprop. The reviews of chlorpyrifos, diazinon and malathion have been completed. Carbaryl is scheduled for 2008. The review of mecoprop has been completed. The re-evaluation of the lawn and turf uses of 2,4-D was conducted in 2005. The final re-evaluation decision document was published on May 16, 2008. The re-evaluation of the lawn and turf uses of MCPA was conducted in 2006 and the final re-evaluation decision document was published May 22, 2008. The re-evaluation of the lawn and turf uses of dicamba has also been conducted.

The new Pest Control Products Act came into force June 28, 2006. Fundamentally, the new Pest Control Products Act strengthens health and environmental protection, makes the registration system more transparent and strengthens the post-registration controls on pesticides.

Some of the regulations under the new Pest Control Products Act are a list of formulants and contaminants of health or environmental concern, revised pest control products regulations, sales information reporting regulations and incident reporting regulations.

With respect to key messages that I would like to give to you today, Canadians should use pesticides judiciously, carefully follow label directions and take measures to become better informed about their safe and effective use. Pesticides registered in Canada for agricultural, forestry, structural and lawn and garden uses must meet all the same health and safety standards in Canada. Health Canada is confident that the pesticides approved for use in Canada, including lawn and garden products, can be used safely when label directions are followed.

Before approving a pesticide, Health Canada critically examines the totality of the scientific information available. Information on pests and pest control methods are available from relevant provincial ministries as well as our own website. We recommend that Canadians who are experiencing pest problems take measures to become better informed regarding various control options, including preventive measures.

I left my contact information there as well. Feel free to contact the agency at any time for additional information. I'd be happy to take your questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hanson. To the PC side, Ms. Scott.

Ms. Laurie Scott: You've got a very good presentation. I know it has been difficult with the late notice. You've flown in from Ottawa not knowing whether you could be on or not, so we're happy that you were fit into the schedule.

I wanted to ask you just a short question, really. Do you feel Bill 64, as it is today, is science-based or not?

Mr. Lindsay Hanson: I would answer that in this way, in that I've made a presentation here today that talks about the science that is conducted at the federal level. In terms of the extensive, rigorous scientific review that we do of pesticides in Canada, we work with our provincial colleagues with respect to pesticide regulation. Certainly the basis, under the Pest Control Products Act, is that it is science-based. As far as the bill itself, I wouldn't comment on the basis for it as I haven't seen what information was used to make that decision.

Mr. Peter Tabuns: What are the risks when people don't follow the instructions on the label? What are the risks if applicators don't follow the instructions that they've been given when they use these products?

Mr. Lindsay Hanson: Certainly, the reason for the label conditions, which are required by law under the Pest Control Products Act and are required to be followed by law, are there for a reason. That is the basis for our risk assessment when we register a product in Canada. We do take into consideration how that product is being used, specifically in this case, for example, for lawn and garden uses: How might that product be used? Our risk assessments can build in a margin of safety in terms of looking at uncertainty factors that we apply to the

registration of a chemical, so there is a fairly large degree or margin of safety when we register a product. In particular, if we're looking at the domestic market for lawn and garden use, as compared to the agricultural sector where applicators are typically trained and licensed, there were typically major differences in the types of products used at each level.

Mr. Peter Tabuns: Have you ever studied the level of compliance?

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Tabuns. To the government side.

Mr. Kevin Daniel Flynn: Thank you, Mr. Hanson, for your presentation. Could you expand on what is meant when PMA—our preliminary list of banned pesticides would be the equivalent of, I understand, your reduced risk category, and now you're also developing a more stringent low-risk category. Could you explain to us exactly what that is? In the past, or I guess even now, products are approved and in the future they're found to be not suitable for use, or they pose an unacceptable risk and they're taken off the market. How often does that happen?

Mr. Lindsay Hanson: With respect to the first part of your question, reduced-risk chemicals is actually a program that is used to register chemicals that had a relative risk difference to something that was already on the market. It was really a process by which we could register products in Canada that had a lower relative risk compared to something that's already being used on the market.

market.

With respect to the lower-risk products you mentioned, we currently have—

The Chair (Mr. Shafiq Qaadri): With respect, Mr. Hanson, I will have to intervene. I thank you for your deputation on behalf of PMRA, Health Canada, and I would certainly invite you to communicate any further information to the committee members.

TOWN OF MARKHAM

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter, Councillor Erin Shapero, to please come forward. I would also ask you to please take the committee's greetings back to Mayor Scarpitti of Markham. I would invite you, Ms. Shapero, to please begin.

Ms. Erin Shapero: Thank you, Mr. Chair and members of the committee. My mayor sent his regards as well. I'd like to thank you for the opportunity to present on this very important matter of Bill 64. This is a very positive step towards eliminating cosmetic pesticide use across the province. I'm here before you today in two capacities: (1) representing Markham council, and (2) as a member of AMO, the Association of Municipalities of Ontario, as a member of their pesticide task force. I will speak from both perspectives this afternoon.

The first thing, on behalf of the town of Markham, by way of background: In June 2007, our council unanimously passed a bylaw restricting the non-essential use of pesticides in the town of Markham. The bylaw came

into effect on January 1 of this year. In support of our bylaw, we have passed licensing bylaws so we can pursue rigorous licensing for lawn care providers with conditions. We've undertaken a \$100,000 education outreach program for our residents and we've adopted new maintenance and management policies for our parks and municipal lands with requisite funding to ensure they're maintained pesticide free.

1640

In passing our bylaw, the town undertook significant public consultation, extensive research, and we took input over a year and a half's time. We've received public input and industry input and we've heard from various experts in this field. We felt that we undertook a very rigorous consultation program and we feel that the province should rely on the work we've done to establish strong provincial legislation.

Actually, just this spring, we enhanced our bylaw even further by removing in 2009 an infestation clause that we had passed in our original bylaw in 2007. I have provided members of the committee with a copy of the resolution from Markham council and our recommendations to the provincial government on this matter.

I'm not going to go through all six of those recommendations—members, you can take a look at those. I will go to the sixth recommendation, and I think this is, first and foremost, the message that my mayor and council wanted to convey to you: "That the province of Ontario take a leadership role in defining a rigorous standard of prohibition that will apply to all municipalities, but that municipalities also be given the option to enact higher standards on the restricting use of cosmetic pesticides."

I think what we're asking for when you pass your provincial legislation is that at a minimum you meet the standard that the town of Markham has set out in our bylaw. It is one of the most progressive bylaws in the province, and if there are questions around why that is, I'm happy to go into that.

In my second capacity here this afternoon, I'd like to speak with you on behalf of the letter that you also have before you from the Association of Municipalities of Ontario. I'm just going to read two brief sections from that letter to you. Again, I sit on the task force of that association.

I'll read it to you: "The Association of Municipalities of Ontario has requested in the past that the government provide a clear, consistent direction to address the issue of cosmetic use of pesticides. We commend the government in moving in that direction.

"While AMO is supportive of the proposed legislation banning the use and sale of cosmetic pesticides across Ontario, we are concerned about a clause in this bill which would render municipal bylaws inoperative and would like to see that clause removed from the proposed legislation.

"Provincial regulation of pesticides ought to be the floor from which municipalities can regulate further, in accordance with local needs. We believe such a direction would be consistent with the intent of the Municipal Act, which was recently amended to bolster local powers to protect human health and the environment. We urge the province to take the approach it took with respect to its anti-tobacco legislation. The Smoke-Free Ontario Act states that, 'If there is conflict between sections 9 and 10 of this act and a provision of another act, a regulation or a municipal bylaw that deals with smoking, the provision that is more restrictive of smoking prevails."

That is what we are looking for in terms of this legislation, and I think that concludes my comments.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Shapero. We'll begin with the NDP, about two minutes or so per side.

Mr. Peter Tabuns: Erin, could you tell us why you see your bylaw as the most progressive in Ontario? What are the elements?

Ms. Erin Shapero: Sure. In relation to the legislation that is before you, there are three areas I draw your attention to. Number one is the products that the town is permitting. That list is based on the extensive public health research that was done by the city of Toronto. Our list matches their list and that is the only list that we have with permitted products. Anything not on that list is not permitted.

The other area that is progressive is in relation to golf courses. Our bylaw does exempt golf courses for a period of three years. In that three-year time frame, we've made it a condition, actually, of the exemption that golf courses submit to us the products they use and the amounts on a yearly basis and the information they submit with respect to their IPM accreditation. So we will be reviewing that at the municipality. If, at the end of three years, we see that there is very little decline in the use of those products, then the exemption at that time would be reviewed by the municipality. That is an area where we felt we needed to be in accordance with the views of our community.

The other area I would direct you to is the area of licensing. In terms of actually enforcing a bylaw, we found that licensing lawn care operators was the best way to do that, and they have to meet a certain number of conditions that the municipality has set out—and there are a number of conditions. If they don't meet those conditions, then we can revoke the licence and they cannot operate in the town of Markham.

I should tell you that we heard from the industry throughout our extensive consultation that this would be just terrible for their business, and at the time we were very concerned about that. In the end, industry has complied in the town of Markham. We have just as many lawn care operators, who are operating traditionally and organically.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Shapero and Mr. Tabuns. We'll now move to the government side.

Mr. Kevin Daniel Flynn: Thank you, Erin, for coming today. It's good to see you. Your bylaw came into effect when?

Ms. Erin Shapero: It came into effect January 2008.

Mr. Kevin Daniel Flynn: Just this January; okay. That would be the same time as Oakville's, then.

Ms. Erin Shapero: Yes. It was passed in June 2007, but we allowed a transition period.

Mr. Kevin Daniel Flynn: Just to get an idea of where we're at compared to yours, then, the proposal that's before us would prohibit the use, whereas you're going to change at end of this year and you won't allow exemptions for insect infestations.

Ms. Erin Shapero: That's right. In 2009 those

exemptions will end.

Mr. Kevin Daniel Flynn: Which would be the same as our proposal. Currently, you have exemptions for golf courses. Do you plan to keep those exemptions?

Ms. Erin Shapero: As I mentioned, that will depend, after a three-year review of the information provided by

golf courses in the town of Markham.

Mr. Kevin Daniel Flynn: And the three years started January 1 of this year?

Ms. Erin Shapero: Yes.

Mr. Kevin Daniel Flynn: And the one thing, obviously, you can't do is—you can license but you can't prohibit the sale.

Ms. Erin Shapero: Yes, that's correct.

Mr. Kevin Daniel Flynn: So the proposal that's being put forward by the province right now—you're saying you've got one of the most progressive bylaws in the province, and I'd agree with that; it's very similar to what's being proposed here today. There may be a difference on some of the lists, it sounds like, of the prohibited products, which is something that I think we could work through over the summer.

Ms. Erin Shapero: Potentially, but I think there is something a little bit deeper in terms of how the province intends to work with municipalities. If you look historically at how 40% of Ontarians have been protected by bylaws, it has been through municipal bylaws. So it's gotten us to this point, but municipalities are really looking for a partnership on this with the province. I think that that partnership would show itself—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr.

Flynn. To the PC side, Mr. Shurman.

Ms. Erin Shapero: —through treating this bill the same way as the non-smoking bylaw was dealt with.

Mr. Peter Shurman: I know Erin, and she'll keep talking until the end of the sentence—no problem.

Do you spray in Markham now for West Nile, gypsy

moths or any other infestation?

Ms. Erin Shapero: York region's health department—that is their domain. As far as I know, we've not sprayed for gypsy moth. The West Nile virus—their treatments are done through the catch basins; there is not fog spraying.

Mr. Peter Shurman: So it's the larvicide, which is a

pesticide.

Ms. Erin Shapero: Yes.

Mr. Peter Shurman: Do you agree with that, and will that change?

Ms. Erin Shapero: I think for public health reasons that is necessary, and I agree with the public health reasons why we would use pesticides.

Mr. Peter Shurman: Okay. One of the problems here in this discussion is whose jurisdiction is this, anyway? One of the things you and I share, because I'm in the riding that is part of your domain, is a termite infestation in some areas, which requires pesticides. Inside usage is exempted, but I suspect that you agree with the use of pesticides for that as well.

Ms. Erin Shapero: Yes, again, for public health reasons; but for cosmetic reasons, no.

Mr. Peter Shurman: Well, yes, until it falls down.

Ms. Erin Shapero: So I agree with you, yes.

Mr. Peter Shurman: This Markham legislation has been described by you as progressive, and I have no reason to doubt that. Why does Markham think it knows better than Health Canada, in terms of what should and shouldn't be available to people to use or not?

Ms. Erin Shapero: We rely heavily on the advice of medical officers of health on this matter; that is what we have been reliant upon. The PMRA, as you may know—there is an element of industry that is within that agency. So it is not an entirely independent body.

Mr. Peter Shurman: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Shapero, for your deputation on behalf of the town of Markham.

RETAIL COUNCIL OF CANADA

The Chair (Mr. Shafiq Qaadri): I would now invite Ms. Kagan, the national manager of government relations, environment, for the Retail Council of Canada. I invite you, Ms. Kagan, to begin now.

Ms. Rachel Kagan: Thank you. I did bring 25 copies of my submission; I see that they're being passed around

Good afternoon. My name is Rachel Kagan and I'm the national manager of government relations for environment for the Retail Council of Canada. On behalf of RCC's members operating across the province, I just want to thank you for the opportunity to appear before you today. I'll try to move through the presentation quickly so that we have some time for questions at the end.

The Retail Council of Canada has been the voice of retail since 1963. We represent an industry that touches the daily lives of most people in the province. Our members represent all retail formats: department, specialty, discount and independent stores, and online merchants. While we do represent large mass merchandise retailers, the majority of our members are, in fact, small, independent merchants and over 40% of our membership is based here in Ontario.

Speaking briefly about the contribution of the retail industry, I would note that retail is the province's second-largest employer, with more than 830,000 employees in Ontario. That's actually a little-known fact, but we rank

right behind manufacturing. And, in terms of scale, retail is well ahead of health care, the tourism industry and others. It's just a huge industry in terms of employment.

In addition, the retail industry had more than \$146 billion in sales in Ontario last year, and has over 16,000 storefronts in the province. Retail is truly an industry that touches the daily lives of most Ontarians.

1650

With respect to the business before the committee today, I am going to restrict my comments to the proposed amendments to the Pesticides Act; that is, the provisions that, if passed, would amend the Pesticides Act and give the province the authority to ban the use and sale of pesticides—which includes herbicides, fungicides and insecticides—for cosmetic purposes, and supersede existing municipal cosmetic pesticide bylaws.

Retailers, as the sellers and importers of designated products and the touch point for both consumers and manufacturers, have a significant stake in the proposed legislation. Indeed, RCC and our members are committed to the health and safety of Ontarians. The fact of the matter is that retailers are and want to be good corporate citizens.

Overall, we support the proposed legislation; however, we have a few recommendations we would like you to consider today regarding implementation timing and consumer education.

RCC understands that the government has expressed a goal of having the ban in effect by spring 2009. However, this is not a feasible timeline, in particular for our small retail members. RRC recommends that retailers be provided with a phased-in implementation period of at least two to three years in order to ensure the responsible removal of affected products from store shelves. Over 85% of RCC members are small, independent retailers, and given their size, their buying cycles are greatly different from larger retailers, many of whom have already announced their intention to phase out the sale of traditional lawn and garden chemicals following the government's original announcement in April. However, it's just not feasible for small and independent retailers and garden centres in Ontario to meet the government's desired timelines of removing such products from their shelves by spring 2009. Most retailers have already completed their buying cycles and made their purchases for next spring and summer, and in some cases they have already purchased for fall 2009.

Independent retailers do not have the financial or human resources to comply with difficult and onerous legislation and regulations. Most small retailers do not have the same opportunities that larger retailers may have in being able to send product back to their suppliers. In order to ensure that banned products are removed from Ontario stores, retailers must be provided with a phased-in timeline of at least two to three years.

In addition to timing, I want to talk briefly about the importance of education and consumer awareness. To ensure compliance with the proposed legislation, retailers must clearly understand their obligations under any new

laws affecting the sale of merchandise, and consumers must also be educated and influenced to change their purchasing behaviour. We understand that part of the intent of this legislation is not just for the protection of the health and safety of Ontarians, but also to support innovative green alternatives to pesticides. As the touch point for both consumers and manufacturers, retailers are the vital link in the supply chain and are strategically well-positioned to assist in educating and increasing awareness among consumers. We'd be pleased to work with the government on the development of a consumer awareness and education program.

Lastly, I'd like to mention that harmonization is a fundamental concern for our sector. The need for legislation and regulation to encourage harmonization with federal, provincial, territorial and municipal laws cannot be overstated. Approaches to pesticide use across Canada are far from consistent and increasingly place national retailers in the position of having to comply with a patchwork of requirements across the country, not to mention the confusion it creates for consumers across different provincial and municipal jurisdictions. On that note, we are very pleased that the government has declared that the proposed amendments, if adopted, would render inoperative a municipal bylaw that addresses the sale and use of pesticides.

Before I conclude my remarks, I just want to reiterate on behalf of the small, independent retailers and garden centres across the province the need for a phased-in implementation period of at least two to three years in order to ensure the responsible removal of cosmetic pesticides from store shelves.

Thank you again for your time today. I'd be happy to take any questions you might have.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Kagan. To the government side—about a minute and a half per side.

Mr. Kevin Daniel Flynn: Thank you, Rachel, for the presentation. You've already told us that there have been some proactive responses from some of your members, and you've also expressed your support for one comprehensive law for the whole province, so that everybody's operating from the same page, I suppose.

Do you see a further role for retailers in things like public education, outreach, that type of thing, and could you expand on that a little bit?

Ms. Rachel Kagan: Absolutely. As mentioned, retailers, being the touch point between those making the products and selling them to the consumers who are using them, have a very important role to educate the consumer. We're on the front lines. The consumers know that we're there, and we're there to help them, and that's certainly a role that we see. We want to work proactively with the government to ensure the same message is across the province. It really speaks to the shared responsibility approach. We all have a responsibility, not just government, not just retailers, but consumers as well, to change our behaviour.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. If there are no further questions, to Ms. Scott, PC side.

Ms. Laurie Scott: Thank you very much for appearing here before us today. I know there's been a lot of discussion of the rural and urban split on this bill. We know that farmers have done a lot with their environmental farm plans and the health and safety of their foods that we all consume. You did speak about the need for harmonization with the legislation and the regulation. Do you think it is good government to leave it to Health Canada and the Canadian Food Inspection Agency to

ensure the public safety of our food supply?

Ms. Rachel Kagan: RCC does represent some food retailers but not all of them—there is the Canadian Council of Grocery Distributors—but overall we certainly support CEPA, the environmental protection act review that's currently going on with Health Canada and Environment Canada. They're doing a comprehensive review of substances—so it's food and really everything—and this really speaks to the need for the federal approach and the harmonized approach, as opposed to doing a patchwork and having different provinces and different municipalities target different substances or different ingredients in food products.

Ms. Laurie Scott: Do you think that we need province-wide hearings on the regulations? This is where the meat and the detail are going to be—in the regulations. Would you recommend province-wide hearings

on those regulations?

Ms. Rachel Kagan: For the cosmetics act?

Ms. Laurie Scott: For the bill.

Ms. Rachel Kagan: Yes, absolutely.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott. Mr. Tabuns?

Mr. Peter Tabuns: No questions, thanks.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Kagan, for your representation on behalf of the Retail Council of Canada.

AGRICULTURAL GROUPS CONCERNED ABOUT RESOURCES AND THE ENVIRONMENT

The Chair (Mr. Shafiq Qaadri): I would now invite Ms. Shaer and Mr. Wettlaufer of the Agricultural Groups Concerned About Resources and the Environment, AGCare, to please come forward. Gentlemen, thank you for your deputation. Please begin now.

Mr. Richard Blyleven: Thank you, Mr. Chair, and to the committee. I'm Richard Blyleven, chair of AGCare,

and this is Paul Wettlaufer, the vice-chair.

AGCare is a coalition of 17 different farm organizations that represent Ontario's 45,000 fruit, vegetable, field crop and flower producers on environmental issues like pesticide use. We were formed 20 years ago to promote pesticide safety training for farmers, including the grower pesticide safety course, which is now mandatory under the Pesticides Act.

Ontario's farmers support the banning of unnecessary and irresponsible pesticide use. We know how important it is to use pest control products safely and we are committed to responsible pesticide use. Pesticides provide great benefits if used properly and as directed, and they are a very important tool in food production.

We appreciate that agriculture has been exempted under the proposed legislation; however, we do have concerns that we would like to bring to your attention

today through our written submission.

Bill 64 proposes to ban the cosmetic use of pesticides on all lawns and gardens. Banning the federally approved pest control products provincially will negatively affect farmers. The future success of Ontario farmers lies in the ability to be competitive against farmers in other areas, especially in the United States. A provincial ban on federally approved products will create regulatory uncertainty for developers of pesticides. We anticipate that this will lead to reduced investment in our product approval in Canada, making it harder for us to compete on an even playing field. The proposed pesticide ban also contradicts the extensive knowledge of Health Canada's Pest Management Regulatory Agency-PMRA-and sends confusing and contradictory messages to the public about the value of Canada's regulatory review and scientific evaluation of pesticide products.

A major focus of world attention is the increasing cost of food and the fear of global food shortage. The Secretary General of the United Nations has urged farmers to produce more food to stop this growing problem. In Canada, there are fewer farmers every year, the amount of available farmland is decreasing and climate change is threatening our ability to grow crops. At the same time, the world's population is growing faster than ever before.

We recommend that the agricultural use exemption for pesticides be made permanent. If farmers are to successfully rise to the challenge of producing more food for the growing global population, we will need every tool available to us. This includes pesticides so that we can continue to feed not only ourselves, but others around the world.

At this time, I would like Paul to take over.

1700

Mr. Paul Wettlaufer: We feel that it's the unnecessary and irresponsible use of pesticides that needs to be banned, not the products themselves. Therefore, we would like to present agriculture's successful approach to responsible pesticide use that could easily be applied to domestic use.

Farmers must be trained and certified under the grower pesticide safety course before they can purchase or use pesticides. Agricultural pesticides are only sold by vendors who are certified via the pesticide vendor certification course, and both farmers and vendors must be recertified every five years.

Since this came into effect, farmers have voluntarily reduced pesticide use by 52%. We would like to stress that these reductions did not come as a result of product bans or restrictions, but through voluntary actions by farmers.

Our recommendations are: Professional pest control operators such as lawn care companies should be required not only to be licensed, but trained and certified in integrated pest management and recertified by examination every five years, similar to agriculture; and pesticides should only be sold from behind a counter to those who can prove that they have been properly trained and certified in the responsible use of pesticide products, similar to pesticide products for agricultural use.

Based on our experience of introducing and implementing responsible pesticide use training and policy 20 years ago and what we have learned over those two decades, we feel this is a clean, simple and defendable approach that will achieve results we all care about: protecting human health and safeguarding our environment in a responsible manner.

To summarize, pesticide use on farm lawns and gardens is not cosmetic but important to pest control on the entire farm. We urge the inclusion of farm lawns and gardens in the agricultural use exemption. The current approach contradicts Health Canada's PMRA and sends confusing and contradictory messages to the public about Canada's scientific evaluation of pesticide products.

We recommend that agricultural use exemption for pesticides be made permanent. Farmers feel they need every tool available. If we are to produce more food, this includes pesticides so that we can continue to feed not only ourselves, but others around the world. We feel that it is the unnecessary and irresponsible use of pesticides that needs to be banned, not the products themselves, and we recommend the implementation of agriculture's successful approach of training and certification of the users and vendors.

Agriculture is a significant part of Ontario's economy. As farmers, we are proud of our role as food producers, and as environmental stewards we want to be sure of our future in the rural landscape. We also urge you to examine our written submission.

Thank you. We would be pleased to answer questions.

The Chair (Mr. Shafiq Qaadri): Thank you, gentlemen. There's about a minute per side, beginning with Mr. Shurman of the PC.

Mr. Peter Shurman: Do you have, gentlemen, any statistics or studies on health care concerns or issues affecting agricultural workers who have been actively involved regularly with the use of pesticides?

Mr. Richard Blyleven: No, we do not.

Mr. Peter Shurman: Okay. You cite the Ministry of the Environment website as advising people to hand-pull weeds, but you say that's negative. Why?

Mr. Richard Blyleven: To hand-pull weeds?

Mr. Peter Shurman: Yes. In your presentation you cite the Ministry of the Environment website as saying to hand-pull your weeds as opposed to using anything else. You didn't say it; they did.

Mr. Richard Blyleven: Oh, you're talking about the submission to the standing committee.

Mr. Peter Shurman: Yes, I am.

Mr. Richard Blyleven: Well, I'm an organic farmer myself and I do pull lots of weeds.

Mr. Peter Shurman: So that's a good idea? It's an alternative?

Mr. Richard Blyleven: It's a lot of work.

Mr. Peter Shurman: I remember that. My dad used to make me do that.

We import a lot of produce into Canada. We import from various countries abroad. Pesticide latitude in other countries is much broader, oftentimes, than it is here. How does that affect your members?

Mr. Richard Blyleven: In the broader use of pesticides? You have to—

Mr. Peter Shurman: Well, for example, grapes from Chile, cherries from California; the pesticide laws are quite different there.

Mr. Richard Blyleven: That's right.

Mr. Peter Shurman: What's the effect on your membership?

Mr. Richard Blyleven: Well, go to Niagara and you'll find peaches and things like that being ripped out of the ground because—

The Chair (Mr. Shafiq Qaadri): Gentlemen, I will have to intervene and offer it now to Mr. Tabuns.

Mr. Peter Tabuns: In your commentary, you don't have a problem, then, with a ban on the use of these pesticides in urban areas?

Mr. Richard Blyleven: We're talking responsible use, yes.

Mr. Peter Tabuns: Sorry, just so I'm clear: The way the legislation is written as it applies to urban areas is not a concern for you?

Mr. Richard Blyleven: Well, it is, in that we use the exact same products as they would in urban areas, so to the public, it would be perceived that the same products that we use on our fields and crops would be toxic because of the cosmetic pesticide ban.

Mr. Peter Tabuns: You think it would change the public perception.

Mr. Richard Blyleven: We feel, yes.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Kevin Daniel Flynn: Thank you for the presentation and thank you for being here today. Two questions: Can you describe the sort of training that you need to undergo now in order to be able to apply pesticides on your crops?

Mr. Richard Blyleven: Okay. As a farmer, every five years we have to go through a day course, a pesticide safety course. That was started back in 1990 when AGCare was formed and worked along with the government.

Mr. Kevin Daniel Flynn: You made a good point, or you made an interesting point, when you said that "things may happen on the lawn that could affect my crop." Something may presumably happen on the lawn of the farmhouse?

Mr. Richard Blyleven: Well, some of the same products are used.

Mr. Kevin Daniel Flynn: Okay, but it wouldn't be some dandelions or crabgrass getting into a crop, or something like that. It would be something different.

Mr. Richard Blyleven: We have those weeds coming into crops.

Mr. Kevin Daniel Flynn: You do? But would they affect your crop? Is that what you were talking about?

Mr. Richard Blyleven: Yes.

The Chair (Mr. Shafiq Qaadri): Thank you, gentlemen, for coming forward on behalf of the Agriculture Groups Concerned About Resources and the Environment—AGCare.

ONTARIO FRUIT AND VEGETABLE GROWERS' ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I would now invite our final presenter of the day, Mr. Hunter, expert advisor on pesticide issues for the Ontario Fruit and Vegetable Growers' Association.

Mr. Hunter, as you're seated there, you've seen the protocol, no doubt. I invite you to begin now.

Mr. Craig Hunter: Thank you, Mr. Chairman and members of the committee, for this opportunity. I see that there is room for two more speakers, so can I have half an hour? No? Okay.

The Chair (Mr. Shafiq Qaadri): I will need to speak with the Premier on that. Please continue.

Mr. Craig Hunter: I want to qualify myself first. I've heard a lot of speakers here today who represent this, and are doing this and that. The two gentlemen ahead of me are both active farmers and have a lot of on-farm experience. My family first farmed in Verulam township, where Ms. Scott's riding is, and are still farming, since 1832.

I've been on the property I have for almost 30 years and I have used pesticides. In the past, I've sold pesticides, I've developed regulations on pesticides, I've done a lot of years of developing recommendations for pesticide use in agriculture and in other areas. I've worked with the PMRA on a number of committees, including the committee that developed the low-risk pesticide guidelines that somebody mentioned earlier.

I want to come here today, though, from my background with pesticide education. There have been a number of references to the need for pesticide education. First of all, I want to start out by saying that I support the elimination of misuse, overuse and unnecessary use of any pesticide in any venue. It is essential that to be able to do so, one must know what safe use, appropriate use and justified use are. It takes education and training, like with any other complicated issue we deal with in society today.

Growers demanded legislated, mandatory pesticide education in Ontario in 1991—the first province in Canada to do so. The government was amazed. They came back and said, "You want this to be mandatory?" The growers said, "Yes." The government agreed and made it mandatory five years later. Today, there are over

25,000 farmers in the province who are certified and recertified by examination every five years. Forestry workers and golf course applicators are required to be licensed by the Ministry of the Environment to do their work with pesticides.

I only presume that these groups have been exempted from most of the provisions of Bill 64 because of this training and expertise that they practise and profess to have. On the other hand, homeowners will not be allowed the use of many pesticides—I believe there are 83 active ingredients—because of concerns that they cannot be trusted to use pesticides outside their homes in a safe manner, presumably since they're not suitably trained. However, they may use some of these very same products indoors, where the risks of exposure are many times greater than anything that happens outdoors. It matters not to me if the indoor use is for health and safety reasons. After all, it is the dose that causes the risk. The user should still be required to prove competence to buy and to use products in such a sensitive environment.

1710

Interestingly, while over 80 active ingredients will be banned for outdoor cosmetic use, others are going to be promoted for those very same uses. So is it the use that's cosmetic or the pesticide? I guess it depends on what side of the argument you want to discuss.

All of these products, whether they're to be banned or not, have been approved for use by Health Canada. Who gets to play God, to decide which one is better or safer than the others? On what basis is this discrimination to be practised? What possible new factor is used to suggest that the cosmetic use is okay if done with product X but not with product Y? Would it not be much better to follow the tenets of the proposed bill by requiring appropriate training for all pesticide purchasing and use? This would include indoor use, outdoor use, products from the X list and the Y list. Since Health Canada has deemed all of these registered pesticides of use when applied according to the label, it seems to me the only issue is to ensure that the label is read-and it's only available in English and French-comprehended and then followed.

The educational materials for this training are already available. Online training capacity is also already available. To truly create safety for our children and the environment, only knowledge gained by training and from facts—not urban myth, not made-up stories—will give Ontarians the comfort zone they need and that I think the original intent of this bill was meant to do. Mandatory training will achieve what does not appear to be forthcoming in what I have seen so far on paper or heard in debate.

I would be glad to answer questions, and I'd love to re-answer some of the questions you've already asked. Thank you for the opportunity.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hunter. About a minute and a half per side, beginning with Mr. Tabuns.

Mr. Peter Tabuns: Sir, are you suggesting that medical officers of health have made recommendations to councils on the basis of myth and urban legend?

Mr. Craig Hunter: I didn't just suggest that; I absolutely agree with that statement.

Mr. Peter Tabuns: So you don't think medical officers of health are competent to recommend on health issues? Is that what you're saying to me?

Mr. Craig Hunter: In any profession, one should always stick to practising in the areas where one has competence. If the medical officer of health is trained in medicine, practise medicine. But if the medical officer of health has no background in toxicology and never worked with pesticides, they should ask for advice, not give opinion or, worse, re-utter things that have been told to them that they haven't verified as fact.

Mr. Peter Tabuns: Have you ever talked to a medical officer of health?

Mr. Craig Hunter: Absolutely, I have.

Mr. Peter Tabuns: And have they said they've made up the data upon which they've made these decisions?

Mr. Craig Hunter: I didn't say they've made up the data. You said that. You said that, sir.

Mr. Peter Tabuns: Urban myth and legend is generally something that one doesn't regard as a sound basis for making political decisions. You've suggested to me that the medical officer of health of the city of Toronto, Sheela Basrur, and—

Mr. Craig Hunter: I didn't say that, sir.

Mr. Peter Tabuns: —David McKeown don't know what they're talking about.

Mr. Craig Hunter: I didn't say that either. You said that

Mr. Peter Tabuns: "Urban myth and legend" was the language you used.

Mr. Craig Hunter: That's correct.

Mr. Peter Tabuns: I asked you and you said, in fact, those recommendations were based on urban myth and legend. You are telling me that people—qualified physicians—have been putting forward fantasies as policy at the municipal level.

Mr. Craig Hunter: No, you just said that, sir. I never said that.

The Chair (Mr. Shafiq Qaadri): I need to intervene there and would offer it now to Mr. Flynn of the government side.

Mr. Kevin Daniel Flynn: Has your organization tracked its own pesticide use over a given period of time? You must have reduced your use, I would think, over the years.

Mr. Craig Hunter: Absolutely. In fact, in one of my former lives I looked after the collection of pesticide use data for Ontario for agricultural use. This has been published. It's done every five years, and has been since 1973. Horticulture has embraced the use of integrated pest management and the use of reduced-risk products wherever possible, and has done everything it can to reduce use. It saves them a lot of money, and because

they live on that land and drink the water on that land, they want to minimize anything that they use.

Mr. Kevin Daniel Flynn: I'm seeing that there are a lot of advances. I did a tour of some greenhouses in Ontario. I was quite impressed with the lack of pesticide use and the use of, I guess, good bugs to go after the bad bugs.

Mr. Craig Hunter: That's all part of the integrated pest management approach that our growers use.

Mr. Kevin Daniel Flynn: That's used inside. Is there any application for that in field crops?

Mr. Craig Hunter: We are using things like pheromones to disrupt the mating patterns of insects on apples, peaches and so on. They're literally twist ties put through a vineyard or an orchard. They confuse the mating patterns and reduce the pest population so—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr.

Flynn. I'd now offer it to the PC side.

Mr. Peter Shurman: Mr. Hunter, thanks for coming today. You're as close as it gets to a use expert; with all due respect to the profession, medical doctors are not. Is this bill based on good science?

Mr. Craig Hunter: The intent of the bill, from what I can read—to reduce unnecessary use—makes good sense. It is how it will be done or how it's proposed to be

done that I have difficulty with.

Mr. Peter Shurman: I'm just concerned with—and I'd like your opinion on this—whether or not, when we talk about cosmetics, we're talking about the bill itself. In other words, is this the appearance of doing something or are we doing something meaningful? We're listening to deputations here that suggest that there are about four levels of government involved in the control of this problem.

Mr. Craig Hunter: I thought when the bill came out that it was about banning the use of pesticides in cosmetics. Every cosmetic that women are wearing today has pesticides in them.

No, it's about reducing unnecessary use. Everyone can agree to that. Banning—

Mr. Peter Shurman: Can I ask you quickly before my time expires: Is there any major agri-crop that you could grow without pesticides?

Mr. Craig Hunter: And make money? No.

Mr. Peter Shurman: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hunter, for your deputation on behalf of the Ontario Fruit and Vegetable Growers' Association.

Are there any further concerns of the committee? I see there are.

Ms. Laurie Scott: I wanted to know, if we could ask a question, if the Pesticides Advisory Committee was able to provide a written submission to the hearings today.

Interjections.

Ms. Laurel C. Broten: Okay. In a convoluted way, I'll now answer the question with the answer that Katch has just given me.

They are mulling it over. That group was spoken about specifically at the subcommittee meeting. They are

making a determination internally on whether they would want to do that, and they still have time because the deadline for written submissions is Friday.

Ms. Laurie Scott: Okay. I would hope that they would decide to put a presentation in. I don't know if you can answer: Were they consulted at all before the bill was drawn up?

Ms. Laurel C. Broten: That's not a question that I can answer for you, Laurie.

The Chair (Mr. Shafiq Qaadri): Mr. Tabuns?

Mr. Peter Tabuns: Could we have legislative research provide us with Sheela Basrur's report to city of Toronto council on pesticide use?

The Chair (Mr. Shafiq Qaadri): I'll direct legislative research to do that.

Mr. Kevin Daniel Flynn: Mr. Chair, just to answer Ms. Scott's question, my understanding is that the group was consulted with three times during the preparation of the proposed bill.

The Chair (Mr. Shafiq Qaadri): Are there any further questions, comments or urgencies? Seeing none, as Ms. Broten has done, I will remind both the committee and also any external deputants that the deadline for submitting written submissions for the committee's consideration is Friday, June 13, 12 noon, to the committee clerk.

Seeing that there's no further business, this committee stands adjourned for clause-by-clause hearings one week hence. Thank you.

The committee adjourned at 1719.







STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke-Lakeshore L)

 $Mr.\ Vic\ Dhillon\ (Brampton\ West\ /\ Brampton-Ouest\ L)$

Ms. Cheri DiNovo (Parkdale–High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L) Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)

Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Kevin Daniel Flynn (Oakville L)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Peter Tabuns (Toronto-Danforth ND)

Also taking part / Autres participants et participantes

Mr. Randy Hillier (Lanark–Frontenac–Lennox and Addington PC)

Clerk / Greffier Mr. Katch Koch

Staff / Personnel

Ms. Carrie Hull, research officer, Research and Information Services

CONTENTS

Monday 9 June 2008

Subcommittee report	SP-61
Cosmetic Pesticides Ban Act, 2008, Bill 64, Mr. Gerretsen / Loi de 2008 l'interdiction	CD (1
des pesticides utilisés à des fins esthétiques, projet de loi 64, M. Gerretsen	SP-61
Registered Nurses' Association of Ontario Mr. Kim Jarvi; Ms. Wendy Fucile	SP 61
Ontario College of Family Physicians	SP-63
Canadian Association of Physicians for the Environment	SP-64
Mr. Alex Cullen	SP-67
Canadian Federation of University Women, Ontario Council	SP-68
City of Toronto.	SP-70
Mr. John Filion; Ms. Monica Campbell	DI 70
Canadian Cancer Society, Ontario Division	SP-71
Ms. Irene Gallagher	~
CropLife Canada	SP-73
Mr. Lorne Hepworth	
David Suzuki Foundation	SP-75
Ms. Lisa Gue	
Scotts Canada Ltd. Ms. Jill Fairbrother	SP-76
MREP Communications	SP-78
Mr. Jeffrey Lowes	
Pest Management Regulatory Agency	SP-80
Town of Markham	SP-81
Ms. Erin Shapero	
Retail Council of Canada	SP-83
Agricultural Groups Concerned About Resources and the Environment. Mr. Richard Blyleven; Mr. Paul Wettlaufer	SP-85
Ontario Fruit and Vegetable Growers' Association	SP-87



SP-7

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Monday 16 June 2008

Standing Committee on Social Policy

Cosmetic Pesticides Ban Act, 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Lundi 16 juin 2008

Comité permanent de la politique sociale

Loi de 2008 sur l'interdiction des pesticides utilisés à des fins esthétiques

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 16 June 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 16 juin 2008

The committee met at 1431 in committee room 1.

COSMETIC PESTICIDES BAN ACT, 2008

LOI DE 2008 SUR L'INTERDICTION DES PESTICIDES UTILISÉS À DES FINS ESTHÉTIQUES

Consideration of Bill 64, An Act to amend the Pesticides Act to prohibit the use and sale of pesticides that may be used for cosmetic purposes / Projet de loi 64, Loi modifiant la Loi sur les pesticides en vue d'interdire l'usage et la vente de pesticides pouvant être utilisés à des fins esthétiques.

The Chair (Mr. Shafiq Qaadri): Colleagues, ladies and gentlemen, I call this meeting of the Standing Committee on Social Policy to order, as you'll know, to consider clause-by-clause for Bill 64, the Cosmetic Pesticides Ban Act.

I will call the meeting to order. As you know, amendments have been received by the clerk's office by 5 p.m. I welcome legislative counsel, who's here in spirit, and proceed to—

Interjection.

The Chair (Mr. Shafiq Qaadri): There he is. You're confusing me, Doug. Welcome, Mr. Beecroft.

We have a number of amendments put forward and we'll begin their consideration. The floor is now open for general questions or comments, not specifically to any one amendment. If there be any comments, I will invite them now.

Mr. Peter Shurman: I just want to get the details on the specifics of the two amendments that were tabled by the Liberal Party.

The Chair (Mr. Shafiq Qaadri): It seems like an entirely legitimate request.

Mr. Peter Shurman: Sometimes I am.

The Chair (Mr. Shafiq Qaadri): Apparently it is in the handout here. So you're welcome to have that, and then of course when we get to those, you're free to ask any member of the party to explain them.

Mr. Peter Shurman: I have them as well. It's just that we need explanation.

The Chair (Mr. Shafiq Qaadri): Yes, of course, when we get to the individual consideration. Any other considerations of a general nature? No, fine.

So we'll now move to consideration of amendment number 1, brought forward by the NDP, labelled amendment NDP motion 1. Mr. Tabuns.

Mr. Peter Tabuns: I move that subsection 1(1) of the bill be struck out.

We're simply arguing that we should be talking about pesticides that we are going to permit in particular circumstances. Those circumstances have been defined in the legislation. "Cosmetic" is redundant, and I would move that it simply be taken out.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Tabuns. Any further comments?

Mr. Kevin Daniel Flynn: The government side won't be supporting that amendment. From the start, what we've been trying to do is address the use and sale of pesticides that clearly have no countervailing benefit, things like dandelions on lawns. That's the intent of including the word "cosmetic." The intent is actually to prohibit the use and sale of those pesticides which could cause an unnecessary risk to human health and the environment. I think we need a clear definition in there.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further questions or comments? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 1? Those opposed? I declare it defeated.

We'll now consider section 1. Shall section 1 carry? Carried.

Section 2: I invite Mr. Tabuns to present NDP motion

Mr. Peter Tabuns: I move that subsection 7.1(1) of the Pesticides Act, as set out in section 2 of the bill, be struck out and the following substituted:

"Use of pesticides

"(1) A person shall not use or cause or permit the use in, on or over land of a pesticide unless the pesticide has been prescribed for the purpose of this subsection."

Again, the focus here is that what you should be providing is a list of materials that can be used in situations prescribed in the legislation. You are prescribing through this legislation a list that can't be used. Because chemicals can be tweaked, they can have their formulation changed in a way that allows you to rename them without substantially changing the way they operate. It's far more effective to have a list of permitted substances or chemicals, and this amendment brings in that far more stringent, far more restrictive definition.

Mr. Kevin Daniel Flynn: We will not be supporting this amendment either. Clearly, the focus of the efforts of this whole exercise is on education and outreach. The bill has been carefully drafted this way. This isn't any accident that it appears that way. It's to ensure that the cosmetic pesticides ban can be integrated into what we have now, which is the existing comprehensive pesticides management regime. So that we can further our efforts here on compliance and enforcement, the bill should remain this way.

Municipal bylaws are able to use what they refer to as a "white list," because they're dealing simply, and can only deal simply, with the use of pesticides. This legislation is far more comprehensive and deals with the sale, transportation, storage, disposal and other elements of

pesticide use.

The Chair (Mr. Shafiq Qaadri): Any further com-

ments, queries, questions?

Mr. Peter Tabuns: Could the government speak to how they're actually going to be maintaining that list in future? Chemicals come out on a regular basis. If you're going to actually protect the public, you're going to have to be evaluating them, monitoring them, checking out epidemiological studies. If you have a list of those that are permitted, then off the bat you know that what you've brought forward are ones that you consider safe, and all others have to prove themselves safe before they go on the market or before they're allowed. This gives far more public health protection.

Mr. Kevin Daniel Flynn: We beg to differ on that. We think that the prohibition on the sale is much more clearly advanced by identifying these products in regulation under Bill 64. I think we have a difference of opinion. I respect Mr. Tabuns's opinions in this regard. It's just simply that we believe this is the better way.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. I'd also note for the benefit of committee members that we welcome the fact that these proceedings are being recorded for one of our presenters, but I just alert the committee that you are being recorded and videoed.

We'll now proceed to consideration of NDP motion number 2. If there's no further—

Mr. Peter Tabuns: We didn't have a vote on that. The Chair (Mr. Shafiq Qaadri): We're about to. *Interjection*.

The Chair (Mr. Shafiq Qaadri): Perhaps you may be practising for downstream changes around here. That's fine.

We'll now consider NDP motion 2. Those in favour? **Mr. Peter Tabuns:** A recorded vote.

Ayes

Tabuns.

Navs

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): I declare NDP motion 2 defeated.

We'll now consideration NDP motion 3. Mr. Tabuns, the floor is yours.

Mr. Peter Tabuns: I move that paragraph 1 of subsection 7.1(2) of the Pesticides Act, as set out in section 2 of the bill, be struck out and the following substituted:

"1. Uses related to golf courses, if the requirements in subsection (3.1) have been met."

The question of golf courses is one that actually led to some interesting debate in the Legislature. Mr. Flynn can speak to that. I'm suggesting that, rather than giving golf courses a pass, as this bill does, as a minimum they be required to put in place a system of pest management or insecticide management control that increases the protection for their workers and the public. This amendment is in line with the work that's being done in Markham, Ontario. It seems to be acceptable there, and I think it could be applied across the province. That's the basis for making this amendment.

1440

Mr. Kevin Daniel Flynn: It appears we have a difference of opinion again, and that's whether this should be enshrined in regulation or in legislation. It's our feeling on this side that if the legislation is passed, the ministry will then begin to work with experts in the field to design a comprehensive set of conditions and regulatory requirements that can best meet the overall goals of this legislation, which obviously is the reduced use of cosmetic pesticides in our environment. We believe that by using the regulatory process, as opposed to the legislative process, we achieve that goal.

The Chair (Mr. Shafiq Qaadri): Any replies, rebuttals, questions, comments?

Mr. Peter Tabuns: A recorded vote.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 3 is defeated.

We'll now proceed to consideration of NDP motion 4. Mr. Tabuns.

Mr. Peter Tabuns: I move that paragraph 5 of subsection 7.1(2) of the Pesticides Act, as set out in section 2 of the bill, be struck out.

For those who are in the audience and can't see it, it's a line that says simply "Other prescribed uses." I have to say to the Chair and the committee that this is far too open-ended. It really means that the government will be open to extraordinary and broad-ranging pressure to provide more and more exemptions to the act as presented.

You have the exemptions that you need here for health and safety. You have the exemptions you need for agriculture and forestry. If those exemptions are met, you don't need further exemptions. If you're talking health and safety, that is a low enough bar to let you deal with a broad range of issues that come before any government and any community.

I would suggest to the government that it would be in your interest to have a bill that dispensed with this exemption, not only because you will provide better protection for the public, but it also gives you greater credibility. On that basis, I would urge government

members to support this amendment.

Mr. Kevin Daniel Flynn: We won't be supporting this amendment, but we do have an amendment coming up that I think speaks to much of what Mr. Tabuns has

been speaking to.

We believe that some exceptions in the front could be things like invasive species control, preservation of trees, the urban canopy. There's much more of an interest in and a knowledge of the impact that trees have on the ecosystem than there was before. People and companies are, I hope, going to start to develop what we hope will be a new regime of low-cost alternative products, low-risk alternative products.

In the future, we're going to have to be dealing with such issues as climate change, introduction of new pests into our environment, innovative approaches to controlling pests that don't use pesticides. We believe that we need to craft these solutions in a regulatory

manner.

Should this amendment not be successful, we have an amendment that will be dealt with after this.

The Chair (Mr. Shafiq Qaadri): Are there any further questions, comments?

Mr. Peter Tabuns: Recorded vote.

Aves

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 4 is defeated.

Consideration of government motion 5. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that paragraph 5 of subsection 7.1(2) of the Pesticides Act, as set out in section 2 of the bill, be struck out and the following substituted:

"5. Other prescribed uses, if any prescribed conditions have been met."

The intention of this is to strengthen this section that allows for other prescribed uses to be exempted from the use prohibition. It actually ensures that other exceptions to the use prohibition that are prescribed in the regulation are conditional exceptions only. The effect is that in order to be able to use pesticides which have been prohibited under the use ban, these other prescribed uses would have to meet all of the conditions placed on them as specified in the regulations to be drafted. Failure to meet the regulatory conditions doesn't mean that these people will just be fined or there'll be a slap on the wrist; it will actually be the loss of that exception.

Mr. Peter Shurman: Can I get an example of anything that might fall under this particular clause?

Mr. Kevin Daniel Flynn: If you came forward with a use that you thought we should use pesticides for which isn't covered under the regulations, you would be given a prescribed set of conditions that you would have to meet before you could use that pesticide. If you did not meet those conditions, that exception would be taken away from you and you would be prohibited from that exception again in the future.

Mr. Peter Shurman: That, Mr. Flynn, could be a temporary or a permanent situation, depending—

Mr. Kevin Daniel Flynn: Depending on the pests or if it's some sort of invasive species, or if it's something even related to public health.

The Chair (Mr. Shafiq Qaadri): Any further questions or comments? Seeing none, we'll consider now government motion 5. Those in favour? Those opposed? I declare government motion 5 carried.

We'll proceed now to NDP motion 6.

Mr. Peter Tabuns: This relates to golf courses. Given that the previous amendment failed, I withdraw this.

The Chair (Mr. Shafiq Qaadri): NDP motion 6 is withdrawn. Are there any comments, nevertheless? We'll consider, then, NDP motion 7.

Mr. Peter Tabuns: I move that subsection 7.1(5) of the Pesticides Act, as set out in section 2 of the bill, be struck out.

Whether or not municipalities can actually take action is a central issue here. If municipalities had not been in a position to move on second-hand smoke, we would not have had the momentum in this province to actually take on the issue. It's very simple and very straightforward. It was the action of municipalities in Ontario, and frankly it was the action of municipalities in the United States that caused state governments to act. Taking away that power in a very key environmental and health area is a very dangerous precedent. We would not be debating pesticide bans or restrictions in this Legislature if the cities of Toronto, Oakville, Peterborough and others had not taken the action that they did. In restricting their powers in this legislation, you are setting up a situation that will make it very difficult for municipalities to take action in the future, to show any leadership—and if municipalities don't show it, you can be very certain that the chances of provincial governments acting are going to be dramatically reduced.

I have some sense of the political reason for the government moving this, but in terms of the long-run health and safety of people in this province and in terms of the long-run relationship between the provincial gov-

ernment and the municipal governments, your initiative is a mistake. I think that you should support my amendment. Frankly, you should support voting against this section of the bill so that the power of municipalities is not constrained.

Mr. Dave Levac: Just a quick question on Mr. Tabuns's rationale: Are you suggesting—and I listened carefully—that the inclusion of this will stop any other action from municipalities from their own bylaws, other than the one that we're specifically talking about?

Mr. Peter Tabuns: My read from talking to people is that they will look at your initiative on this and conclude that their actions on toxic chemicals will be subject to end runs in the future. It will minimize and undermine the momentum to actually pioneer environmental and health-protective action at the municipal level.

Mr. Dave Levac: Thanks for the clarity.

Mr. Kevin Daniel Flynn: This is probably the most debated part of the proposal so far. I spent 18 years on a local council myself, and I think that if Mr. Tabuns and I had met during those years, we probably would have shared a similar view as to what we should be doing with pesticides.

The reason that my council became involved in this is because the provincial government refused to act in this regard. What you had was municipalities acting in default, basically, because once they had the Hudson decision and the authority from the courts to act, and after they had worked their way through that, they implemented bylaws restricting the use of pesticides.

My analysis is that the provincial proposal is stronger by far in that it bans the sale, something municipalities couldn't do—would have liked to have done, but simply couldn't do. I think, by default, what we have before us is a much stronger piece of legislation than any municipality has been able to implement in the past, simply because their authority is limited.

If the debate is about municipal autonomy, then the argument could be made—and I don't want to see the argument made that a municipality would not have to meet the threshold of the provincial government. If municipalities have the right to act in an autonomous way when it comes to the issue of pesticides, then surely they would have the right to do even less than the provincial regulation brings into effect. So I think that would be a step backwards. I understand the argument. Certainly, my 18 years as a regional and as a local councillor are something that I haven't left behind by any means, but I don't think Ontarians want a patchwork of regulations.

At some point in the future, could the legislation be improved, could the regulations be strengthened? Certainly, there's a process for doing that, but I don't think Ontarians want one rule for the use of pesticides where they live, another for where they work, another for when they're at the cottage and another one when they're at somebody else's cottage. What Ontarians want is for their government to act in a way that implements a restriction on the use of pesticides that's agreed to by the

vast majority of the citizens in the province. You'd get that information from the Environmental Bill of Rights; there's a lot of support for this proposal.

In my opinion, the largest impact of this entire exercise will be the ban on the sale. If you can't get your hands on the pesticides, you aren't going to use them. It's that simple, whether you're tempted to use them or not, if you can ban the sale. So I think we all agree that that has got a lot out of the way. This is almost getting into that "How many angels can you get on the head of a pin?" thing now—we're starting to get into the details. I really think this is more of a theoretical argument than it is one of substance. The real substance is going to be the ban on the sale of pesticides.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Tabuns.

Mr. Peter Tabuns: You covered a lot of ground in that. First of all, I'll just say that in terms of municipalities and the whole question of floor or ceiling, no one would argue that we shouldn't be protecting human health and the environment. For the province to step in and set a floor below which municipalities can't go—no one would argue with it. You don't set standards for water quality and say that we have any objection to people having a higher level of protection of their water. We don't have any objection to people intervening to make sure that their environment is safer and healthier. So I don't think your argument about simply making it a question of municipal autonomy holds up. No one's arguing that municipalities should be able to provide a lower level of protection.

The question is, will municipalities be able to continue as they have in the past under the Smoke-Free Ontario Act and set a higher standard for protection of health and safety in their community? What you've done here is roll that back and set a precedent that I think is dangerous and, beyond that, betrays a lack of respect for municipalities that actually have been the pioneers in protecting human health and safety.

When I talk to colleagues in the United States on the climate change issue, it's at the state and city levels where people are taking action on climate change and, frankly, ignoring the federal government because, as we all know, it's a dead letter for them on climate change.

What you've done, I think, is set in motion a precedent that will be highly problematic for cities and for this province in years to come. The question of patchwork was an issue that I had to deal with when I fought for smoke-free restaurants and bars in the 1990s. The simple reality is that as science moves on, as public consciousness moves on, you're going to have an understanding that some chemicals have to go. There may be cities in this province that are willing to go further than the provincial government is willing to go. There will be a patchwork. I think that if you were setting the bar high enough, no city would want to go further: that would be one thing, but you're not. You're actually rolling things back, in particular with reference to the city of Toronto.

Lastly, in terms of the sale, I think your argument has a lot of merit when you say that the strength of this bill is that it bans the sale of particular pesticides and herbicides. But, as I said earlier—and this happens in the pharmaceutical industry and in the pesticide and herbicide industry—you can tweak a chemical in a very minor way, retaining its impact but setting it up so that it is patentable and saleable. Frankly, I think a lot of companies will do that to get around your ban. Unless you show a very different approach to that of the past, unless the federal government shows a very different approach, we'll be fairly slow to keep up with changes in chemistry. I think your sale list will be outmoded, probably within five to 10 years. I think that there will then be a substantial political battle to have that list keep up with what's really on the market.

In the end, retaining the powers in the hands of the municipalities is a safety net for the protection of human health and safety. I think you are very wrong to roll back the power of municipalities in this situation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr.

Interruption.

The Chair (Mr. Shafiq Qaadri): And thank you for

that spontaneous outburst.

Mr. Kevin Daniel Flynn: Just in answer to that, I think we are performing a public good here. I think what we're doing is banning—and I don't think we should lose sight of that—the use and the sale of cosmetic pesticides in the province of Ontario. It's something that I wasn't sure, as a politician, I'd ever live to see. So I don't want to lose sight of that. I think if you look at the patent process for new drugs, or for drugs that are emerging on the market, and you look at the pesticide approval regime, they're two completely different things.

I have some sympathy for the point being put forward by Mr. Tabuns, but I also have my feet grounded in reality. This is a proposed bill that I think could be put into place in a schedule that would lead to a ban on the use and sale of cosmetic pesticides by spring of 2009. I

think it's time to move forward on it.

The Chair (Mr. Shafiq Qaadri): I would just advise our observers that they would feel free to applaud on an individual basis, but not during committee hearings. Thank you.

We'll now proceed to consideration of NDP motion 7.

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 7 is defeated.

Now consideration of NDP motion 8; Mr. Tabuns.

Mr. Peter Tabuns: I move that subsection 7.1(5) of the Pesticides Act, as set out in section 2 of the bill, be struck out and the following substituted:

"Municipal bylaws

"(5) Despite section 14 of the Municipal Act, 2001 and section 11 of the City of Toronto Act, 2006, if there is a conflict between a provision of this section and a provision of a bylaw passed by a municipality, the provision that most restricts the use, sale, offer for sale or transfer of a pesticide prevails."

The Chair (Mr. Shafiq Qaadri): Any further

comments?

Mr. Kevin Daniel Flynn: Just briefly, Mr. Chair, I think the same debate would apply as we had on the previous question. But when I look at what has happened since municipalities have been placed in a position where they were forced, really, to implement their own bans, somewhere between 33 and 36 have implemented them. The proposed legislation is clearly stronger than any one of them, because it bans the sale. Even if you went down into exceptions and into other uses, whether it allowed for use in exceptional circumstances or infestations, I would make the argument that the proposed legislation is clearly stronger than, or at least as strong as, the route that has already been taken by about 33 out of those 36 municipalities. So I think it meets the test of municipal approval just in that regard.

The Chair (Mr. Shafiq Qaadri): Mr. Tabuns.

Mr. Peter Tabuns: Yes, I should just note that in consideration of this matter by the city of Toronto board of health, they have asked the city solicitor to look for legal avenues to ensure that the city of Toronto can enforce its own bylaws should the act that you put in place be less protective of health and the environment than what they have in place. So you may well be opening the door to an ongoing series of legal challenges by failing to adopt the resolution that I have before you.

The Chair (Mr. Shafiq Qaadri): Any further questions, comments or queries? Seeing none, we'll consider the vote.

Mr. Peter Tabuns: Recorded, please.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

1500

The Chair (Mr. Shafiq Qaadri): NPD motion 8 is defeated.

That brings to conclusion consideration of amendments for that particular section, so we'll now consider the section as amended. Shall that section 2, as amended, carry? Those opposed?

Section 2, as amended, is carried.

Having to date received no further amendments for sections 3 and 4 inclusive, I'll now ask if the committee will agree to consider both sections simultaneously. Seeing no objections, shall sections 3 and 4 carry? Carried.

We'll now consider section 5, NDP motion 9. Mr. Tabuns.

Mr. Peter Tabuns: I move that paragraph 43 of subsection 35(1) of the Pesticides Act, as set out in subsection 5(1) of the bill, be struck out.

Again, this is related to our proposal that the government's ability to arbitrarily prescribe exemptions be removed, and I've previously made my argument on that.

The Chair (Mr. Shafiq Qaadri): Any comments?

Mr. Kevin Daniel Flynn: Chair, I previously had a response to that argument.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. If there are no further comments, the floor is now closed for motion 9 commentary. We'll now consider the vote recorded.

Ayes

Tabuns.

Navs

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 9 is defeated.

Government motion 10 is now being considered.

Mr. Kevin Daniel Flynn: I move that paragraph 44 of subsection 35(1) of the Pesticides Act, as set out in subsection 5(1) of the bill, be amended by adding, "or five" after "paragraph 1".

This motion is required to support the amendment to section 2 of the bill, paragraph 5 of subsection 7(1.2) of the Pesticides Act previously discussed, by providing the Lieutenant Governor in Council with the authority to prescribe conditions and regulations that must be complied with in order for the prescribed use to be excepted from the use prohibition.

Again, the intent of this simply is to strengthen the section that I think all members of the committee supported.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Any commentary? Questions? Queries? Going once

Seeing none, we'll now consider government motion 10.

Those in favour of government motion 10? Those opposed? Government motion 10 is carried.

NDP motion 11. Mr. Tabuns.

Mr. Peter Tabuns: I move that paragraph 48 of subsection 35(1) of the Pesticides Act, as set out in subsection 5(1) of the bill, be struck out.

Again, this speaks to allowing municipalities to pass stricter pesticide bans. Previous arguments have been made.

The Chair (Mr. Shafiq Qaadri): Thank you. Consider now—a recorded vote—NDP motion 11.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Motion 11 is defeated.

NDP motion 12.

Mr. Peter Tabuns: I move subsection 5(2) of the bill be struck out.

Again, this is related to the approach that would have the government list the pesticides that can be used rather than those that are banned. I think it's far more protective of human health and the environment and one that should be adopted by the government.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Kevin Daniel Flynn: Only to say, Chair, that we would not agree. We understand the sentiment being expressed by Mr. Tabuns and feel that we're proceeding in the right way on this matter.

The Chair (Mr. Shafiq Qaadri): Thank you. Recorded vote on NDP motion 12.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 12 is defeated.

NDP motion 13.

Mr. Peter Tabuns: I move that subsection 35(3) of the Pesticides Act, as set out in subsection 5(2) of the bill, be struck out.

This again relates to protecting the ability of municipalities to pass stricter pesticide bans.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Seeing none, a recorded vote on NDP motion 13.

Ayes

Tabuns.

Navs

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 13 is defeated.

This now brings to an end consideration of individual amendments to section 5.

We'll now consider the section as a whole. Shall section 5, as amended, carry? Those in favour? Those opposed? Section 5, as amended, carried.

To date we've received no amendments for section 6, so we'll proceed unless there are comments directly to its adoption.

Shall section 6 carry? Carried.

We'll now proceed to NDP motion 14.

Mr. Peter Tabuns: Withdrawn, Chair.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll consider section 7. Shall section 7 carry? Carried.

We'll now consider NDP motion 15.

Mr. Peter Tabuns: Withdrawn.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Tabuns.

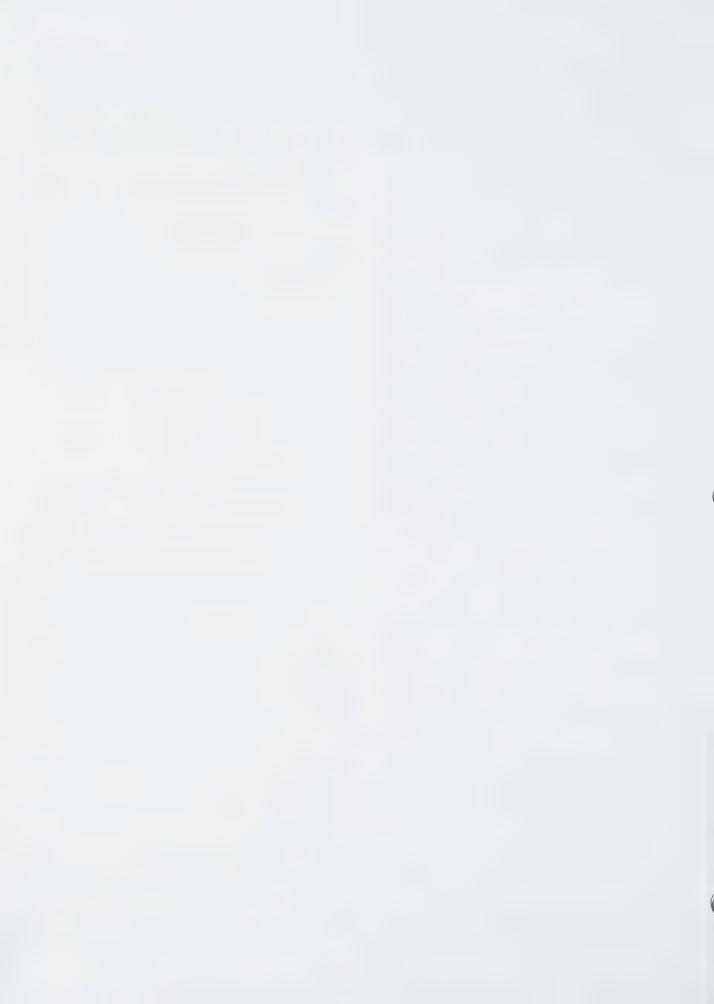
Shall the title carry? Carried.

Shall Bill 64, as amended, carry? Carried.

Shall I report the bill, as amended, to the House?

Are there any further questions or comments, or applause? Seeing none, I declare this committee adjourned.

The committee adjourned at 1505.



CONTENTS

Monday 16 June 2008

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke-Lakeshore L)
Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)
Ms. Cheri DiNovo (Parkdale-High Park ND)
Ms. Helena Jaczek (Oak Ridges-Markham L)
Mr. Dave Levac (Brant L)
Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)
Mr. Khalil Ramal (London-Fanshawe L)
Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)
Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Kevin Daniel Flynn (Oakville L) Mr. Peter Tabuns (Toronto-Danforth ND)

> Clerk / Greffier Mr. Katch Koch

Staff / Personnel

Mr. Doug Beecroft, legislative counsel Ms. Carrie Hull, research officer, Research and Information Services SP-8



SP-8

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Tuesday 5 August 2008

Standing Committee on Social Policy

Services for Persons with Developmental Disabilities Act, 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mardi 5 août 2008

Comité permanent de la politique sociale

Loi de 2008 sur les services aux personnes ayant une déficience intellectuelle

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Tuesday 5 August 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Mardi 5 août 2008

The committee met at 0904 in committee room 1.

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, I'd like to officially call this meeting of the Standing Committee on Social Policy to order. As you know, we're here to meet for a province-wide consultation on Bill 77, An Act to provide services to persons with developmental disabilities, to repeal the Developmental Services Act and to amend certain other statutes.

SUBCOMMITTEE REPORTS

The Chair (Mr. Shafiq Qaadri): To begin with, I'd invite members of the subcommittee to please enter into the record the two subcommittee reports, for which purpose I will call upon Mr. Levac.

Mr. Dave Levac: This is a report of the subcommittee.

Your subcommittee on committee business met on Wednesday, June 25, 2008, to consider the method of proceeding on Bill 77, An Act to provide services to persons with developmental disabilities, to repeal the Developmental Services Act and to amend certain other statutes, and recommends the following:

- (1) That the committee meet for the purpose of holding public hearings on August 5, 6, 7 and 8, 2008.
- (2) That the committee meet in London, Ottawa, Timmins and Toronto.
- (3) That the clerk of the committee, in consultation with the Chair, place an advertisement about the public hearings in the major English and French newspapers across the province, as well as in a major English and French newspaper of each of the cities where the committee intends to meet.
- (4) That the clerk of the committee broadcast the advertisement about the public hearings on VoicePrint in English and French.
- (5) That the clerk of the committee post information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.
- (6) That interested people who wish to be considered to make an oral presentation on the bill should contact the clerk of the committee by July 30, 2008, at 5 p.m.
- (7) That the clerk of the committee provide a list of all interested presenters to the subcommittee following the deadline for requests.

- (8) That, if necessary, each caucus provide the names of eight proposed witnesses and five alternates from the list of interested presenters to the clerk of the committee for the location that is oversubscribed.
- (9) That each presenter be given 15 minutes in which to make a statement and answer questions.
- (10) That the deadline for written submissions be August 12, 2008, at 5 p.m.
- (11) That amendments to the bill be filed with the clerk of the committee by September 3, 2008, at 5 p.m.
- (12) That the committee meet on September 8 and 9, 2008, for clause-by-clause consideration of the bill.

When I turn my paper over I'll read numbers 13 and 14

- (13) That the research officer provide a summary of the presentations to the committee by August 27, 2008.
- (14) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

So read into the record.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Levac, for reading the entire report. I now invite any questions or comments. Seeing none, I'd ask for a vote for the report to be adopted, as read. Carried.

I'll invite Mr. Levac to now please read the second subcommittee report.

Mr. Dave Levac: Standing Committee on Social Policy, subcommittee on committeee business, draft report of the subcommittee:

Your subcommittee on committee business met further on Thursday, July 31, 2008, following the deadline for requests to appear, to consider the method of proceeding on Bill 77, An Act to provide services to persons with developmental disabilities, to repeal the Developmental Services Act and to amend certain other statutes, and recommends the following:

- (1) That the meeting times for the committee be from 9 a.m. to 4 p.m.
- (2) That the agendas for London and Ottawa be adjusted to accommodate all requests received at the deadline.
- (3) That each caucus provide the clerk of the committee a prioritized list of eight presenters and seven alternates chosen from Toronto requests.

(4) That the potential presenters not chosen to appear before the committee in Toronto be offered the opportunity to make a presentation to the committee via teleconference on August 7, 2008, in Timmins.

(5) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

There are no words on the other side of the page, so I can proceed to say that that's your report, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Levac, for reading the report and the verification that you've just provided. I now invite comments or questions from any members of the committee. Seeing none, those in favour of adopting the report, as read? Those opposed? The report is adopted, as read.

SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES ACT, 2008

LOI DE 2008 SUR LES SERVICES AUX PERSONNES AYANT UNE DÉFICIENCE INTELLECTUELLE

Consideration of Bill 77, An Act to provide services to persons with developmental disabilities, to repeal the Developmental Services Act and to amend certain other statutes / Projet de loi 77, Loi visant à prévoir des services pour les personnes ayant une déficience intellectuelle, à abroger la Loi sur les services aux personnes ayant une déficience intellectuelle et à modifier d'autres lois.

DUAL DIAGNOSIS IMPLEMENTATION COMMITTEE OF TORONTO NATIONAL ASSOCIATION FOR THE DUALLY DIAGNOSED, ONTARIO CHAPTER

The Chair (Mr. Shafiq Qaadri): We'll now proceed to our first deputation. I would remind all of those who are listening, both in person and elsewhere, that the format is that 15 minutes will be offered to each presenter, whether they're individuals or representing organizations, and they can use that time as they wish. Any time remaining will be distributed strictly evenly amongst the parties for questions, comments, debates and rebuttals.

We'll now move to our first presenter. I hope that they are both present, as we are just changing the order a bit. They are representing Dual Diagnosis Implementation Committee of Toronto and the National Association for the Dually Diagnosed, Ontario chapter, represented very ably by Mary Jane Cripps, who is co-chair of the Dual Diagnosis Implementation Committee of Toronto, as well as, I may add, director of Reconnect Mental Health Services in the extraordinarily great riding of Etobicoke

North; as well as Susan Morris, president of the National Association for the Dually Diagnosed, Ontario chapter. I would invite you both, Ms. Cripps and Ms. Morris, to please come forward. Please have a seat and, incidentally, introduce yourselves just for the purposes of Hansard recording for entering into the permanent record of the proceedings here at Queen's Park. Your time officially begins now.

Ms. Mary Jane Cripps: All right; thank you. Good morning. As Dr. Qaadri has so eloquently introduced me, I am here from that wonderful riding in north Etobicoke. My work position is executive director of Reconnect Mental Health Services, but today I'm presenting in front of your committee in my position as co-chair of the Dual Diagnosis Implementation Committee of Toronto, or the DDICT.

To tell you about the DDICT, our role is to monitor policy developments and work plans related to system design and implementation undertaken by the Ministry of Community and Social Services, the Ministry of Health and Long-Term Care and the community network of specialized services. Our committee also supports and encourages cross-sector system and service delivery integration at a local, regional and provincial level. I'll speak more to the integration of services in working with the specialized population of those with dual diagnosis later in our presentation. Thank you.

Ms. Susan Morris: My name is Susan Morris. In my work role, I am the clinical director of the dual diagnosis program at the Centre for Addiction and Mental Health. I am here today on behalf of the Ontario chapter of the National Association of the Dually Diagnosed.

NADD is a voluntary association representing families and service providers who work in the health and developmental service sectors. We're particularly concerned about the mental health of individuals with developmental disabilities. Our advocacy activities focus on service excellence through initiatives that support education and training directed to staff and families.

I'm just going to proceed with a bit of an introduction about the health and mental health needs of individuals with developmental disabilities, and then we have two points that we'll pick up on with respect to the bill.

Individuals with developmental disabilities experience higher rates of mental and physical illnesses than the average Ontarian. Of the approximately 300,000 individuals living with developmental disabilities in Ontario, 38%, over 100,000, will experience a mental health problem during their lifetime. This includes emotional difficulties, and/or psychiatric illnesses including mood disorders, depression, anxiety and schizophrenia.

The Ontario government recognized the significance of mental health issues in 1997, when the Ministries of Health and Community and Social Services established a joint policy that defines this population as individuals with a dual diagnosis. Dual diagnosis affects all individuals with developmental disabilities, from the range of mild, moderate to severe cognitive disabilities, as well as individuals with a diagnosis related to Down's syndrome or autism.

In addition to mental health difficulties, individuals with developmental disabilities experience higher rates of certain health problems and illnesses than the general population. Here, we're talking about physical disabilities at about 30%, communication and seizure disorders at around 30%. Amazingly, dental disease occurs in upwards of 90% of individuals with developmental disabilities. A large portion experience gastroesophageal reflux, usual problems that you and I have, and osteoporosis.

The introduction of Bill 77 is a significant milestone in Ontario's history, given the distance that we have come since 1974. Our social values have changed significantly since then, and the bill represents Ontario's commitment to integration of individuals with disabilities into the fabric of our lives and also provides a means for more choice to individuals and families in terms of how they receive supports and services.

Given the 34 years that have transpired since the original act, there are, however, two crucial areas that we want to speak to today. I'm going to speak to the first one and Mary Jane to the second.

In regard to the first one, the lack of any reference in the bill to the protection of personal health information is a startling gap, particularly given what we know about the health and mental health needs as I've just described. With this omission in the legislation, one might presume that Ontarians in 2008 continue to believe that our most marginalized and vulnerable citizens are not entitled to the same rights and protections as the rest of the population. We know, of course, that that's not true. Unfortunately, however, in practice, the abuse of rights of this nature occurs quite frequently for two reasons: in part because professionals working in the developmental and mental health sectors either aren't aware of these laws or, more concerning, don't think that these laws apply to individuals with developmental disabilities.

In my experience, we have examples of treatment being provided, such as the prescribing of psychotropic medications, without the assessment of the individual's capacity to understand that treatment, or the provider looking to the group home worker who happened to accompany the individual on that day to explain the side effects and also to provide consent for that treatment.

In a different example, Bill 77 provides for individualized funding to go to the person with a developmental disability or a person acting on their behalf with no reference to establishing the legal standing of that individual or the other person. In regard to financial competence, we know that the Health Care Consent Act is very clear about how rights of an adult 18 years of age and older are to be protected in this regard, or when a substitute decision-maker is to be appointed. As a health care provider, I have seen a number of examples of financial abuse of competent individuals with developmental disabilities by well-meaning families and by not so well-meaning other people who step in, including landlords.

With regard to the application centres, by their very nature and their role under the Personal Health Information Protection Act, they will be considered to be health information recipients, and thus should be subject to the restrictions related to the collection, use and disclosure of health information.

Finally, the unfettered access by ministry staff to agency records which include personal health information without consent would also violate the privacy rules that we all must abide by in Ontario. So, therefore, we strongly urge this committee to ensure that, where relevant, Bill 77 reflect the rights that are ascribed to all Ontario citizens by including references to the Personal Health Information Protection Act, the Health Care Consent Act and the Substitute Decisions Act. Only in this way will it be ensured that the appropriate legal protections are available to individuals with developmental disabilities.

I'll turn it over to Mary Jane.

Ms. Mary Jane Cripps: Thank you. I would like to speak to the section of Bill 77 as it relates to qualifications of persons undertaking assessments and reassessments and the definition of professional and specialized services. Again, I would comment that, working in the health sector with individuals who are dually diagnosed, that is the special lens in which I was reading, interpreting and commenting on the legislation.

Throughout the legislation, "prescribed" is used with frequency. For example, in relation to administrative requirements, there are prescribed types of services, prescribed quality assurance measures that comply with reporting requirements as prescribed, financial records to be made available in the prescribed manner. Bill 77 describes "prescribed" as meaning "prescribed by regulation." Thus, many important details of how Bill 77 will actually operate in the real world are unknown and have to be specified in regulations and/or policy. A particular problem is the stipulation that applicants will be assessed by persons with prescribed qualifications, using such methods of assessment or criteria as may be prescribed. The qualifications of persons conducting assessments and reassessments and the methods and criteria they employ are of immense concern to families and to the professionals and paraprofessionals who provide services to individuals with developmental disabilities and/or dual diagnosis.

0920

In addition, the definition of professional and specialized services is too narrow. It neglects the full range of professionals and paraprofessionals required to provide services under Bill 77 and the breadth of services currently provided to individuals with developmental disabilities and/or dual diagnosis. For example, the definition needs to be specific and clear in what it's saying, but it must also be broad enough to allow for developments in technologies and assessment tools and for those professionals who can be properly trained to administer the assessment tools. While it is clear in the legislation that physicians and psychologists can conduct assessments, the profession of nurse practitioner has evolved tremendously and they have been able to take over some diagnostic responsibilities. So the question arises, is the category of physicians and psychologists, as it's spelled out, too narrow; does it truly reflect the best use of professionals in our system today; could it be expanded? And, of course, we would like to see an openness to future developments in technologies, tools and professions.

We would propose that the bill should not encumber those emerging new areas of information and growth. Of course, regardless of professional designation, all assessors must have basic and, we would even propose, specified training in the area required to conduct the assessments.

We therefore suggest to the committee and recommend that the qualifications of persons conducting assessments and reassessments and the methods and criteria they employ must be spelled out in the legislation. We additionally recommend that the definition of professional and specialized services be broadened in the legislation to include not only those services that may be purchased by all those necessary health, mental health and community services required by people with developmental disabilities—here again, specifically those with dual diagnosis. For example, the bill must recognize that individuals with dual diagnosis receive a range of specialized services that are currently not listed. As an executive director of a mental health organization, we work with individuals with dual diagnosis in numerous programs. We have several specialized programs working with the dually diagnosed, including day treatment, vocational programs and, of course, we work with people with dual diagnosis through our ACTT team, the assertive community treatment team, which includes nurses, OTs, physicians, social workers, vocational specialists and also people with an addiction specialty. We also, in our housing programs, house individuals with dual diagnosis and we provide the support to them to maintain their housing and live successfully. We also have a continuum of mental health and justice programs and we certainly are seeing a number of people with dual diagnosis coming through those programs.

We are not governed by the Mental Health Act but we comply completely with the Mental Health Act and we would not want to see Bill 77 set up unnecessary steps that a person must go through in order to continue to receive services within the health care community. It's a challenging population; they're vulnerable, and we believe that services must be completely accessible and available.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Cripps. We have a firm 30 seconds per side, with the Conservatives to lead.

Mrs. Christine Elliott: Thank you for an excellent presentation. I think you've raised some very good points with respect to the issue of consent and capacity. Would you recommend that there be an actual formal capacity assessment done whenever someone is coming in to service to—

Ms. Susan Morris: We think it's necessary. I think one of the issues is accessibility to a capacity assessment.

Mrs. Christine Elliott: Yes. I think it's very important, in the protection of these vulnerable people, to make sure that someone acting on their behalf is qualified and acting properly. It's a very good point.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: Do you have any specific wording around your qualifications comments, something that we could insert in the act, or are you leaving that to our lawyers?

Ms. Susan Morris: We're leaving it to you.

Ms. Mary Jane Cripps: Although we are presenting a written submission—

Ms. Susan Morris: We will present a written submission, but I'm not sure that it'll satisfy—

Ms. Mary Jane Cripps: The lawyers. Ms. Susan Morris: We'll look at it.

The Chair (Mr. Shafiq Qaadri): To the government side. Dr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. As you mentioned, the aim of Bill 77 is to strengthen, to enhance, the situation of people with a disability. I want to thank you very much for raising many different issues. I'm looking forward to reading your submissions about the issues Mr. Prue raised.

The Chair (Mr. Shafiq Qaadri): I'd like to thank you, on behalf of the committee, for your presence and representation on behalf of the organizations that you represent: Dual Diagnosis Implementation Committee of Toronto, and National Association for the Dually Diagnosed, Ontario chapter.

METRO AGENCIES REPRESENTATIVES COUNCIL

The Chair (Mr. Shafiq Qaadri): As there is some rescheduling going on, I'd just like to know if Mr. Colin Hamilton and Don Walker are present. Are you ready to begin your deputation?

Mr. Don Walker: Sure.

The Chair (Mr. Shafiq Qaadri): Are you Mr. Hamilton or Mr. Walker?

Mr. Don Walker: Mr. Walker.

The Chair (Mr. Shafiq Qaadri): That's great. Please come forward. We are actually having you appear about half an hour earlier than scheduled because of some cancellations and so on. I'd now invite Mr. Walker, who is a member of MARC, the Metro Agencies Representatives Council, and the executive director of New Visions Toronto. Mr. Walker, as you've seen, you have a firm 15 minutes in which to make your deputation, and time remaining will be distributed as you've just seen. I invite you to begin now.

Mr. Don Walker: As was indicated, my name is Don Walker. I represent MARC, Metro Agencies Representatives Council, whose members are 21 Toronto-based developmental agencies that provide a wide selection of supports and services to people with a variety of needs. MARC believes that all people should have the supports and services they need to live with dignity and to assist

people to reach their maximum potential as contributing citizens.

I'd like to begin by recognizing the Ontario government for its efforts in transforming developmental services and working to create a more inclusive society for all citizens. I would also like to thank the government for bringing forward this important legislation, which will likely serve our society for decades to come. The proposed legislation looks to address a number of important issues of significance to the developmental services sector.

MARC supports many of the positive changes that have been proposed and is eager to work with its partners and with government to make sure that this bill creates a progressive vision and framework for the transformation of developmental services. We support the government's attempt to develop better tools for understanding resource needs in the sector.

We believe that some changes to Bill 77 will enhance the ability of all to create a truly inclusive society. I would like to address proposed changes on areas we, at MARC, feel will help ensure that people who have an intellectual/physical disability have full control over the decisions and activities that shape their lives and that they are afforded the support they need to live as full citizens.

While there are a number of issues, I respect the process and the other presenters and will limit my comments to the following matters: inspections and operations, application centres, and community development.

With respect to our first issue, we believe that people with disabilities must be afforded the same rights and responsibilities as other citizens with respect to their dwelling. A home is a place where one must feel a sense of control, safety and respect. In order to protect the very essence of home, we believe that an official entering one's home must secure a warrant based on reasonable assumptions of wrongdoing in the home. This would apply equally to all types of residences, including supported group living residences and intensive support residences.

It is our recommendation that this matter can be addressed in the legislation by considering the following: that under subsection 27(3), the words "unless the residence is a supported group living residence, an intensive support residence or a prescribed type of residence" should be deleted and the following words utilized: "unless with the consent of the occupier of the place or under authority of a warrant." The amended section would read, "The power to enter premises under subsection (2) shall not be exercised with respect to a residence for persons with developmental disabilities that is owned or operated by a service agency unless with the consent of the occupier of the residence or under the authority of a warrant."

0930

In 27(4)(d), delete the words "a residence referred to in subsection (3) or of other" and "residents or other." The amended subsection 4(d) would read: "in the case of

an inspection of premises in which services are provided to persons with developmental disabilities, examine the condition of the premises and its equipment and inquire from any person in the premises, including persons receiving services from a service agency, about," and then continue with the rest of the wording.

We must all recognize that this matter has been successfully addressed elsewhere. As you are no doubt aware, Ontario's new Long Term Care Homes Act, section 143(2), "Dwellings," states: "No inspector shall enter a place that is not in a long-term care home and that is being used as a dwelling, except with the consent of the occupier of the place or under the authority of a warrant." This protection of a person's residence/home is common to other legislation that includes powers of inspection. Upon consultation with our members, we have not been able to identify a situation where a warrant was issued due to a request for access to something that was denied.

Recommendation 2, application centres: With respect to our second matter, in order to address potential conflicts within the application processes and to build on effective processes currently being used, the legislation should make clear that the various elements might be delivered by different bodies within a given region. The various bodies responsible for the administration of the application process must be connected in such a way as to ensure easy access for people applying for support, while eliminating any potential for conflicts. To this end, the legislation should refer to an "application process" rather than "application centres." The responsibility for allocations of funding should remain a direct responsibility of the government.

We request that consideration be given to addressing the following revisions in the legislation:

Part III, section 7(2), should read, "A director may issue policy directives related to the application process with respect to the following matters."

Section 8(3) should read, "Every application process shall provide a single point of access to services funded under this act for persons with developmental disabilities residing in the geographic area prescribed in the application process' designation." Other references to application centres should be changed accordingly to reflect the idea of an application process rather than an application centre.

Over the past 10 years, MARC, its partners and other community agencies delivering developmental services within the region of Toronto have invested significant effort and resources to develop a collaborative approach to access and delivery of service. The success of this collaborative partnership, which we believe is also true of other collaborative systems across Ontario, should serve as a foundation on which to build coordinated access to services and an integrated approach to service delivery. When agencies operate as a system, the capacity of each agency to meet the needs of individuals and families is enhanced. Individuals and families are the beneficiaries of a coordinated system dedicated to improvement, quality, system planning, innovation and accountability.

In this regard, the current Toronto collaborative model's successes are compelling. We believe that the success of transformation in this legislation is contingent upon a framework that builds on the successes and strengths of the current system and current collaborative approaches while emphasizing accountability to individuals and families. We strongly recommend that Bill 77 recognize the value of a collaborative approach in moving toward transformation.

For example, a proposed function of the application centres that would be best monitored by community agencies and their collaborative systems is the management of waiting lists. Waiting lists are significant across the province, and in Toronto, more than 2,700 people are currently without the community needs (day) or residential supports they require.

At agencies across Toronto, waiting on a list doesn't have to mean that the individual or family cannot receive some level of support. Agencies have extensive knowledge of resources available in the community that an individual can access while waiting for paid supports and services. In addition, community agencies provide services that are not funded by the government that may be accessed by individuals waiting for support.

Our final area of focus today is in respect to community development. Bill 77 provides mechanisms through which dramatic and positive changes could occur with respect to the inclusion in community life of people who have an intellectual or physical disability. Such change will not occur without the necessary support needed to prepare for and carry out these changes. Bill 77 should provide for funding in the following four areas in order to ensure that the gains envisioned by the act are realized.

First, agency supports for innovation: As people who have an intellectual or physical disability become increasingly aware of their rights as citizens, demands and expectations are changing with respect to the types of support people are seeking. Further, given the implementation of direct funding mechanisms in the sector, the relationships that people have with agencies are also changing. To ensure that service agencies can continue to evolve and respond positively to changing demands, investments must be made to support the development and sharing of innovative approaches. Bill 77 should make provisions for such investments.

Second, support for direct funding: Bill 77 makes no direct provision for the creation and development of supports to assist individuals who choose direct funding to administer their funds or to coordinate supports they purchase to ensure that they are receiving the best quality possible. While Bill 77 would allow for people to purchase such support using a portion of their direct funding, few such services currently exist and investment is needed to establish them. Bill 77 should include provisions for funding to create and develop such supports.

Third, community development: True transformation of developmental services will come from our continuing ability and commitment to connect with the community and to assist people in taking part in community life. While Bill 77 makes provisions for the individual support that people will need to take part in the community, there is no provision made for the funding of innovative community development initiatives that would open doors to the community or build community capacities for social inclusion of persons who have an intellectual or physical disability. Bill 77 should make provision for funding of innovative community development initiatives that can enhance the outcomes achieved through the provision of direct supports and funding.

The final point, advocacy: Prior to 1995, the government of Ontario provided small seed grants to community advocacy groups to assist them in organizing for the purposes of community education, bringing a voice to the issues that concerned them and identifying barriers that excluded them. The developmental services sector would be served well by ensuring that self-advocacy, family and other groups are able to organize in a fashion that allows them to play an effective role in the public discourse related to the inclusion of people who have an intellectual or physical disability. We recommend that Bill 77 make provision for such advocacy groups.

We recognize that it may be the government's intent to clarify a great deal about Bill 77 within the future development of regulations. However, we believe that over the history of developmental services, language such as the word "centre" in "application centres" can conjure up an image of a rigid, formal structure in which one must fit versus a more progressive and relevant approach to support as is intended by Bill 77, and therefore it should be reflected within the actual bill as opposed to being clarified within the regulations.

I, on behalf of MARC, strongly urge the committee to address the issues of inspections and operations, application centres and community supports in order to ensure that the legislation is effective in addressing the needs of people who have an intellectual or physical disability in Ontario. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Walker. It will be a firm one minute per side. Mr. Prue.

Mr. Michael Prue: In terms of the finances, you dealt with finances in four areas. Do you think that should be confirmed before the bill proceeds?

Mr. Don Walker: It would certainly be important that there be a strong indicator that if it couldn't be in place before the bill proceeds, it will be coming shortly thereafter.

Mr. Michael Prue: Have you heard anything from the government at all that the monies will be forthcoming to make this bill a reality? It's part of what the opposition is worried about.

Mr. Don Walker: Right. Not in the detail that we would like to see.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Khalil Ramal: Thank you very much for your presentation. I know you mentioned many different things. First, I want to thank you very much for your

support for the bill. I was listening to you when you were raising your many different concerns and issues that you wish the government to address. One of them, the most important thing, was about entering and inspecting a place without a warrant. As you know, the aim of the bill is to make sure all the people who are receiving the money are using it in the interests of the person with a disability and it's not being abused. There's also a section in the bill to make sure that private homes are not subject to inspections—only businesses which receive money from the government.

Mr. Don Walker: The concern, sir, with respect to when you talk about businesses, is it's really indicating that the people who get the support from those businesses are not looked at in the same manner as other people, and that's the concern. That, in their eyes and our eyes, is their home as well. That should be respected.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal. To Ms. Jones.

Ms. Sylvia Jones: Thank you, Mr. Walker. I wanted to get you to expand a bit on the application centres—a comparison with application centres and the application process. Can you share with the committee why you want that changed and, specifically, how you think it would improve the process?

Mr. Don Walker: As we indicated, in Toronto, for example, and certainly among other regions in Ontario, there has been a large amount of resources already contributed to setting up collaborative processes. That's the main focus. These processes are in place, and we would like to see them continue as opposed to being under the roof of one organization, so to speak, which concerns us because of the fact that it doesn't include the other partners.

Ms. Sylvia Jones: So you're concerned that the collaborative process would actually be hurt with the way it's—

Mr. Don Walker: There's the potential.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thank you, Mr. Walker, for your deputation today as well as going earlier.

I'd also just like to announce on behalf of the committee that we will be setting up the room next door for the overflow participants and members of the audience.

SHEILA LAREDO

The Chair (Mr. Shafiq Qaadri): I'd now invite, if she is present, Sheila Laredo. Is she present? Wonderful. Please do come forward. Sheila Laredo is here in her own personal capacity, I understand, and you'll have, as you've seen, 15 minutes in which to make your deputation. I invite you to be seated. Please begin.

Dr. Sheila Laredo: Thank you for allowing me to speak today. I'm here as a parent of two children with autism, and also on behalf of Friends of Children with Autism, which is a non-profit organization that advocates on behalf of children with autism. I'm speaking as a

parent of two children who are aged 12 and 10, as a physician and also as an advocate.

I'm specifically speaking today because of my experience with the autism intervention program, which is a Ministry of Children and Youth Services program that provided services in many ways analogous to the services that are contemplated under Bill 77. What I mean by that, specifically, is that there are two funding mechanisms under the autism intervention program called DFO for direct funding option and DSO for direct service option. Those are very much analogous to what's proposed in Bill 77.

Let me say first of all that families are very pleased to see this kind of program going forward, and also that with respect to the autism intervention program, for those children who have been able to access the services, there has been a profound positive impact on the children and on their families. I encourage this bill to go forward, and to go forward with substantial support so that all individuals can benefit from it.

What is the direct funding option versus the direct service option? As you would expect, the direct funding option provides a funding envelope for families to purchase services for their family members with autism, to receive ABA, or applied behavioural analysis, which is an intensive therapy shown to be effective. Direct service option involves a situation where no money changes hands, but the government contracts with regional providers to then provide those services on behalf of those children.

Clearly, neither of those programs is perfect for every individual in every circumstance, but there are some important differences that I want to point out to you. First of all, flexibility: Under direct funding option, parents are able to individualize programs for their children. Families have been able to provide services 24/7, whereas under direct service, service agencies have typically provided service Monday to Friday, 9 a.m. to 3 p.m. Very often, it is centre-based so that families have to go to the centre, which can involve a lot of driving and, in the context of looking after other children, of having jobs and so on, it can be quite onerous. They tend to provide one-size-fits-all options, whereas under direct funding families can really create a program that works best for their children. Families can obtain training through direct funding, which allows them to also provide intervention for their children at other times when the service isn't otherwise taking place, and this is parallel with what is considered best practices for autism intervention programs.

It might surprise you to know that while families have consistently provided more hours of therapy per week for their children, it has cost them far less. In the Auditor General's report of 2004 on the autism intervention program, the Auditor General found that the cost of providing service by families when they were funded was \$27 per hour, as compared to, on average, \$109 per hour through direct funding. There are a number of reasons for that, which are perhaps beyond the scope of my pres-

entation, but I think that's a really relevant point when we're looking at the fact that there are approximately 1,500 children receiving service and 1,100 children on the wait list.

Along those same lines, direct service providers have been put in a significant conflict of interest in that they are the gatekeepers for direct funding. We know from our experience that they have prevented families and disincented families from receiving the direct funding option, and that's in direct contravention of what the government mandated for them: to provide both options to all families.

There has also been conflict in that their decisions regarding when to start service and when to discontinue service are to some extent predicated on the fact that they experience a lot of pressure based on the fact that there are these wait lists of children waiting to be served. So it's very important that there be a clear separation between service provision and service decision-making processes.

Finally, there has been an inequity between what was funded under direct funding and under direct service. Direct service provided a complete umbrella of services, whereas under direct funding a number of items were missing which families then had to dig into their pockets to get. I want to make a few points around that and propose that funding for programs like direct funding be entirely equitable with funding for direct service so that there's no disincentive to families who want direct funding to approach it, so that they can design programs that best meet their loved ones' needs.

We recognize that there are a number of families who have not chosen direct funding notwithstanding, and the reason for that in many situations is because families feel overwhelmed. It's overwhelming enough to look after a child with autism—to also have to manage and oversee a program of intensive applied behaviour analysis. So we would recommend that there be processes and supports in place for families to get infrastructure support: things like peer-to-peer networks; Web services that can provide full listings of agencies that are available to them; expansion current websites such as ABACUS respiteservices.com; and finally, that there be a clear, distinct separation between service provision and application centres—and I do think that is contemplated in paragraph 37(e) of Bill 77, in which it states that there may be a decision to prevent application centres from also being service agencies. I would prefer that that be clarified under law so that there is no disincentive, that there is no conflict of interest for service providers and for families.

I want to move now to access to and adequacy of funding. It's clear to me that Bill 77 is created to improve the quality of lives of individuals with disabilities and their families, and that really can only happen if access is sufficiently simple that all individuals, regardless of their abilities, are able to access these services. I have been told by family members who have attempted to get Passport funding that it's a complex procedure. The

applications are complex, there is non-transparency with respect to eligibility criteria, and there is uncertainty as to whether you will receive services, and if so, when. There's also unsecured funding from year to year, so that even if families do have a plan in place for their loved ones, they can't guarantee that that will continue because there's no funding. So agencies who provide service for those individuals are concerned about whether to take on those care programs because they don't know whether they'll be hired from year to year.

Families of children with autism and of those with disabilities may be of assistance to you, and certainly the individuals themselves may be of assistance to you. We have a lot of experience with running the autism intervention program and other social service programs, and we can help you with respect to determining what works well and where the challenges lie.

I want to talk about distribution of funding now, and I want to say that it's entirely appropriate that the funding be tied directly to the individual with a disability.

0950

We know there are some agencies that are concerned that they may be vulnerable to variable case loads if the funding is high to the individual with a disability. Let me tell you that parents of individuals with disabilities, their families, and the individuals are clear that the needs of the individuals with disabilities must never be superseded by the needs of the agencies who serve them.

Families must have the option to vote with their feet, and in so doing will encourage and motivate service agencies to provide high-quality, cost-effective programming. We have seen some often absurd outcomes that result when funding is not tied to the individual, as, for example, occurs in education when special-needs assistants are not tied to children. What can happen there is that when a child moves from one school to another in the middle of the year, the child moves to a new school where there is no support for them, and the education assistant is not required to move and so they stay behind at the old school where there's no child to support.

Families will be able to purchase high-quality services if given direct funding. History has demonstrated that even in the context of perceived lack of infrastructure, families have recruited and retained trained experts and qualified ABA therapists. By contrast, direct service providers were at the same time complaining that despite increased funding, they weren't able to expand the number of children they served because of inadequate infrastructure. Agencies provide one-size-fits-all approaches; families individualize to their family members.

This isn't to say that service agencies aren't the answer for some families, but giving the option really does respect the dignity of individuals with disabilities who often can speak for themselves and can very clearly articulate what their needs are and what their wants are for their care planning processes.

So I would like to propose that direct funding be a clear and viable priority under Bill 77, and that the needs of individuals with disabilities be prioritized over those of the agencies, that the funding be tied directly to the individuals, and that funding that's allocated actually be sufficient to result in important and meaningful outcomes for the individuals and their families, and that families of individuals and the individuals with disabilities themselves be consulted about how to actually roll out the nuts and bolts of this bill when it becomes law.

Finally, I want to talk about meaningful service delivery, and there are two points here. One is that we know, for example, that there are concerns about the income arising from RDSP being considered in terms of other income-tested programs and the fact that that may put families in a position in which they have to decide between the RDSP and social programs, and that's a very difficult position to put families in. Please don't do that for this program. Ensure that funding under this program is not considered income for the purpose of other income-tested programs. Finally, I would encourage the government to please collect data so that you know what this funding is being used for, what the programs are, the relative efficiency of the different funding mechanisms, and most importantly, what the relevant client outcomes are.

I want to thank the government for this important initiative; I want to thank you, the committee, for your time; and I want to thank Friends of Children with Autism, who have provided very important contributions to my presentation today.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Laredo. We have under 90 seconds per side. To the government and Dr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. You explained exactly why we're introducing Bill 77. You outlined the details of the aim and goal of Bill 77. That's why we have the individualized funding: so that it goes to the family. We believe strongly that the families deserve to choose the program that fits their kids and benefits their kids and also utilize benefits from the programs and services in the community instead of going miles and miles to seek service. I want to tell you of our commitment to emphasize all the elements you mentioned.

The Chair (Mr. Shafiq Qaadri): Thank you to the government side. To Ms. Jones.

Ms. Sylvia Jones: You've raised some excellent points. I appreciate you taking the time this morning.

I wanted to just quickly touch on the RDSP, because I have put forward a private member's bill, and now you've explained in a very eloquent way why I would like the government to either take up that bill or support it. Thank you. Hopefully, when Bill 94 comes for debate, I can keep you going on that support.

You mentioned, in terms of funding, that it should be equitable, it should tie to the individual, which I have heard in other conversations. Do you find that the funding currently in place—and specifically with Bill 77, because there has been no additional announcement of funding. Do you think that the goals of Bill 77 are going to be achieved with the funding that is in place?

Dr. Sheila Laredo: It's unclear to me at this point what funding is actually in place for Bill 77. Certainly, that is one of my concerns, that there be enough money so that the individual programs, on an individual-by-individual basis, are sufficient to have meaningful outcomes for those individuals, and also that there is enough money for all individuals to benefit. If everybody benefits just a little bit, that may actually be no benefit at all. There has to be enough for everybody and enough for each individual to have meaningful benefit in their community.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Prue?

Mr. Michael Prue: I just want to go back to the equality of funding and the statement you made. You said there are 1,500 children with autism who are being serviced and another 1,100 on the waiting list?

Dr. Sheila Laredo: Approximately.

Mr. Michael Prue: For there to be equality of funding, and for this bill to succeed, would I be correct, then, that you're looking at probably a doubling of the amount of money so that all children could be looked after?

Dr. Sheila Laredo: There wouldn't necessarily need to be a doubling of money if the money was used more effectively; I've shown you that. We have rough estimates in 2008 that show that the direct funding option costs about a third to a quarter that of the direct service option. So it seems to us that if the money is used more effectively, a complete doubling of money might not be necessary to eliminate those wait lists, and eliminating the wait lists will have perhaps a significant impact on the number of people who need to be served under Bill 77 down the road.

Mr. Michael Prue: The bill itself, though, contemplates wait lists. I've never seen that in a bill before. Can you comment on that?

Dr. Sheila Laredo: I absolutely have concerns about wait lists. We've seen the devastating impact of wait lists on children with autism having to wait 18 months or more for service when it's clear that starting service early has an important impact. We know that families often don't get funding or are delayed in the funding that they want under Passport, although I personally don't have that kind of experience. I would like to see that there's going to be some thought as to how to make this as cost-effective as possible so that there are no wait lists.

Mr. Michael Prue: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Laredo, for your presence, as well as your written deputation, which has been distributed.

DURHAM FAMILY NETWORK

The Chair (Mr. Shafiq Qaadri): I'd now like to invite, if she is present, Cindy Mitchell of the Durham Family Network. Ms. Mitchell, are you there? Great. Please do come forward. As you've seen, you have 15

minutes in which to make your deputation. I invite you to begin now.

Ms. Cindy Mitchell: Thank you so much. I come here as a parent of a young woman with a developmental disability and as a member of Durham Family Network. Durham Family Network brings families together, not as recipients of service, but as active participants in moving forward with our sons and daughters to a good life for them, now and in the future. The network offers an opportunity to bring families together for mutual support, learning and shared purpose.

In May of this year, several Durham families came together and expressed deep concern about the inequity and inadequacy of individualized funding. Durham families sent out an invitation to other families across Ontario to respond and participate in a day of action by collecting petition signatures and going en masse to Queen's Park.

Family to family, the word spread across this province, and well over 100 families went to Queen's Park on May 26 this year. On that day, families from across Ontario raised serious questions for the Ontario government on why we have not received the individualized funding and direct support that thousands of families have applied for, qualified for, and need in order to support our disabled adult sons and daughters to be full, inclusive participants in their local communities.

After question period on May 26, many families stayed for the second reading of Bill 77, and we are hopeful that this new act will end the injustice for our sons and daughters with disabilities by ensuring they are equitably and adequately supported to be full, participating citizens.

The Minister of Community and Social Services should be commended for updating the very old Developmental Services Act. The rights and citizenship of persons with developmental disabilities are dependent on this legislation. Families want to have ongoing input into the legislation, including its regulations, to assist the government in getting it right so that our sons and daughters can share a good life with all other citizens of this province.

This legislation has the potential to significantly enhance the social inclusion of persons with developmental disabilities, and families would encourage the government to further promote this outcome by spelling this out in a preamble describing the social change this new legislation aims to achieve.

On May 26, families asked the government some key questions: When can families expect appropriate budget allocations for individualized funding as per the transformation agenda goal? Direct funding programs, such as special services at home, the Passport program and innovative residential program are grossly underfunded. When can families expect fairness, fairness in funding levels and wages? For years, Ontario has denied wage increases to staff hired by families, whereas it has granted increases to service agencies. Families have been waiting for decades for funding equity and adequacy, and their

sons and daughters are also waiting, often at home alone on the couch, waiting for the support they need to participate more fully in our society.

Families were astonished to find that wait lists are enshrined in this new legislation. A whole generation of families have raised their sons and daughters at home and have been waiting for adequate funding for support when their children reach adulthood, waiting for funding and support to ensure their children can continue to participate when high school ends. When will these young people, who have so much to offer our society, stop waiting? The provision for waiting lists in this new act must be struck from the legislation.

Another very viable option, rather than enshrining wait lists and leaving people waiting with absolutely nothing, would be for the legislation to provide for access to resources for independent planning and facilitation. This is a viable option because, with access to independent planning and facilitation, often other more meaningful and cost-effective support options are identified for people. Planning and facilitation must be person-directed, because by having the facilitator work for the person, conflict of interest would be avoided. Person-directed planning and facilitation independent of the service system enables an individual and their family to make informed choices without pressure to select one agency, service or program over and above another. Person-directed planning and facilitation must be an entitlement.

Most of us have heard the term "life happens." Well, life also happens for family and people with disabilities. Parents age, become ill, families move, or their sons and daughters move on and move out. The new legislation doesn't even mention portability and accessibility of direct funding when it is allocated. Families and individuals must be assured of the right to have those allocations available to them if they choose to use them in another way, or with another organization, or move to another community in this wonderful province of Ontario.

Durham Family Network members have been active participants on the provincial ad hoc working group analyzing Bill 77. The group raised numerous concerns about the setting out of specific functions of application centres in the legislation. We share a strong concern for the serious conflicts inherent in the legislation. When one centre is doing the assessing, prioritizing, and determining of funding and programs, there is a very strong sense of conflict of interest, especially in light of no apparent appeal process.

People need to see that they are being treated fairly and within a transparent process. The Durham Family Network agrees with the provincial ad hoc Bill 77 working group that the government should be cautioned against setting out specific functions of application centres in this new legislation, and that it would be far more appropriate to lay these out in the regulations so that changes can be made as the model develops, safeguards can be implemented and practice can be monitored and evaluated over time.

Finally, to summarize, the following are some of the priority recommendations that I would make to the standing committee: Develop a preamble that describes the social change in this legislation and what it aims to achieve, i.e., an act to enhance the social inclusion of persons with developmental disabilities; the provision for wait lists in this new act should be struck from the legislation; person-directed planning and facilitation must be an entitlement once eligibility has been determined; the inclusion of a statement about accessibility and portability of funding allocations as a key principle of direct funding; the description and statements of functions of application centres should be limited until such time as regulatory safeguards are created.

In closing, I come before this committee as a single mom of a young woman who has so much to offer her community and society as a whole. This human potential has been wasting away for three years since this young woman left high school. Her life changed at that time from a life full of possibility and activity in an inclusive school environment to one of long days at home often alone on the couch because eventually I had to go back to work after recovery from a serious illness. Through good planning, we have managed to create some opportunities for my daughter; however, her full inclusion and participation in society would be very significantly enhanced by the potential of this new bill and I'm very excited about it. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much. A firm two minutes per side, beginning with Mrs. Elliott.

Mrs. Christine Elliott: Ms. Mitchell, you've raised some really wonderful points. I'd like to just expand on a couple of them. We've heard from several this morning with respect to the lack of knowledge with respect to funding and how the new program will work without additional funds being added to it. I would hope that the minister would consider that prior to final determinations on this issue so that everyone knows what is actually going to be available to make a final determination with respect to the bill.

Secondly, you indicated that the planning needs to be flexible, to be portable and so on, and you also mentioned the fact that an independent planning agency or an agency that's separate and apart from the service provider would be helpful. Could you speak a little about that to give the committee a little bit more understanding of what you have in mind with respect to that?

Ms. Cindy Mitchell: Absolutely. Access to independent planning and facilitation right after someone is deemed appropriate for this program could mean a really viable option in terms of offering families and individuals different choices because sometimes families and people are not fully aware of what the choices might be. Traditionally, families have just seen the service option. There are families out there that are very capable, knowledgeable and organized and can offer other options within the community that are more appropriate and more meaningful for individuals—participation in com-

munity activities that are inclusive, that offer support to families—that don't cost a thing.

The Chair (Mr. Shafiq Qaadri): Thank you, Mrs. Elliott, with apologies. We'll now move to Mr. Prue.

Mr. Michael Prue: You raised the issue of a preamble. I remember on the day of the debate, I raised that issue in the House. Why do you think it's important to have a preamble to the bill?

Ms. Cindy Mitchell: Because I think you need to clarify the government's intentions for this bill. If it is to enhance the social inclusion of persons with developmental disabilities, that needs to be clearly spelled out so that we can achieve that. A preamble describes what we want to do.

Mr. Michael Prue: A preamble in most legislation or, say, in the Constitution—everything that's in the bill has to be read back to make sure that it's consistent with the goal. Is that why you want it?

Ms. Cindy Mitchell: Absolutely. If the goal is the social inclusion of persons with developmental disabilities, let's be clear on that.

Mr. Michael Prue: If the preamble was there—and I agree with you—how would we juxtapose that with waiting lists? If the preamble says, "We want to make everybody inclusive," and then the bill has a waiting list inside—maybe that's why they don't want to put a preamble in.

Ms. Cindy Mitchell: A very viable option to a waiting list is to support the planning and facilitation, allowing families to look for alternatives. Planning and facilitation can offer that to families. In my daughter's case, she joined a church. She made the decision on her own, and that has offered all sorts of support to her. She volunteered in a community school.

Mr. Michael Prue: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. To the government side. Mr. Levac.

Mr. Dave Levac: Thank you very much for your deputation. Obviously, your personal experiences allow you to make some extremely personal and legitimate comments about how people with disabilities should be cared for. My experience is that in my past life I had an opportunity to help do the planning process, which is one of the most difficult things for family members to do, because that's their intent. Actually, for most of the people I've spoken to, it's not really about the money; it's about "making sure that my child's taken care of when I'm not here." So I respect that deeply. But money, when you bring it up, seldom attaches itself to a bill. That's a reality that the opposition knows and anyone who has been in government realizes, that money is not attached to a bill, it's the programs that come as a result of that. So there will be some debate going on, particularly from the opposition, to try to see if there are ways we can attach the money to that. But you're aware that money isn't attached to a bill in a regular writing.

There are three demonstration sites that are going to be set up for about a 12-month period to talk directly about the decision-making process that you're talking about. So that's an "are you aware" question: Are you aware that there are three demonstration sites—

Ms. Cindy Mitchell: No, I am not aware of that.

Mr. Dave Levac: —to come up with exactly what you're talking about in terms of the planning decisions and the evolution of what we're looking for? So the government is onside with what your thinking is in terms of the planning.

Ms. Cindy Mitchell: But, as a parent active in community, that I'm not aware of that concerns me.

Mr. Dave Levac: Absolutely. It's a good point about communication.

Ms. Cindy Mitchell: Thank you.

Mr. Dave Levac: And we appreciate your efforts so far.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Mitchell, for coming forward and sharing your personal story as well as on behalf of the Durham Family Network.

MELANIE KITCHEN

The Chair (Mr. Shafiq Qaadri): I'd now invite, if she's present, Melanie Kitchen to please come forward. You've seen the protocol: You have 15 minutes in which to make your presentation. Please begin now.

Ms. Melanie Kitchen: I am Melanie Kitchen, parent of an individual affected by this bill.

Thank you for Bill 77. You've done the hard part by crafting a bill that recognizes that supports for people with a developmental disability have changed dramatically over the years. It is with enthusiasm that I have joined in the process of transformation whenever invited by the government. Thank you for allowing me to speak and to be a participant once again as you deliberate on the additions and changes to Bill 77 that will make it truly transformative.

My daughter lives with a developmental disability. Melissa requires assistance with all aspects of personal care, including eating and drinking, as well as decision-making. She needs to have somebody available to her at all times. Her support needs are such that we have always needed to be deliberate and determined to ensure she has as many of the experiences and opportunities that others her age have.

Bill 77 brings to a close the era of large institutions for people with a developmental disability. Ours are the children who were born when the Developmental Services Act in 1974 transferred the responsibility for services for people with a developmental disability from the Ministry of Health to the Ministry of Community and Social Services. Our children were born when the concept of helping people who have a developmental disability to integrate into the general community was gaining worldwide acceptance. It is small wonder that 80% of families who have an adult with a developmental disability support them with little or no public funding.

Bill 77 is giving families who choose to continue to directly support, financially and in other ways, their adult sons and daughters the opportunity for a little financial equality with families who have chosen agency services or group homes. Individuals and families will no longer have to choose between living in a group home and using agency services and receiving no financial support from government. As aging parents, it is good to know there will be the possibility of assistance to help our adult children continue to live their lives with the involvement of family and friends.

I have not developed my ideas on how to raise and support my daughter in a vacuum, but through dialogue with and support from other families and agencies. My own values and dreams for my other children, who are on a different point on the continuum of human abilities, have also helped shape how I believe a person with a developmental disability and their family should be sup-

ported in our society.

The Ministry of Community and Social Services states on its website, "The ministry wants to honour the choices people and their families make about living in the community to best suit their specific needs. Our mission is to support the realization of the goal of being fully included in society, and for people who have a developmental disability to have the same opportunities as other Ontarians to participate in the life of the community."

Bill 77 goes a long way to doing that. There is remarkable agreement on the issues that need to be included or strengthened or clarified in the bill among the many stakeholders, including agencies, family groups and families, self-advocates and those who do not receive government funding. You will hear from many of them during these hearings.

There are many issues I would like to speak to, but given our limited time, I will focus on three which seem particularly important to the parent of a woman who has grown up at home and in her community:

(1) the importance of including supported decision-

making in the legislation;

(2) the importance of including person-directed planning with independent facilitation in the legislation;

(3) the importance of accessibility and portability of direct funding in the legislation.

Let me expand on these points.

I was surprised to learn that there is no provision for supported decision-making in Ontario legislation for adults with developmental disabilities. By "supported decision-making," I mean that an individual can be supported in making substantial decisions by those they trust. The individual and her support group are extended legal recognition for the purposes of entering into legal contracts. This is particularly important for individuals who are vulnerable to being influenced by those in society who do not have their best interests at heart and who may never truly develop the ability to understand the consequences of some of their decisions.

Supported decision-making is considered a viable alternative to substitute decision-making in other jurisdictions in Canada. It has recently been adopted into

international law under article 12 of the UN Convention on the Rights of Persons with Disabilities.

This government needs to take the significant step towards giving people with developmental disabilities fuller autonomy and citizenship by including the recognition of their legal capacity in this bill and supporting amendments that enshrine supported decision-making. Such recognition provides a mechanism for individuals to enter into an agreement for direct funding without having to surrender authority to a substitute decision-maker or guardian who may be struggling with truly putting the interests of the individual ahead of their own.

My second point is one I have particular experience with and which I believe is very important to families choosing direct funding. There is no mention of independent facilitation and planning supports in Bill 77 for individuals, their families or caregivers. I recognize that some of the details related to facilitation and planning may be included in subsequent regulations and policy, but for direct funding to be a successful choice for families and government, it needs to be incorporated into the legislation, allowing for the full effect of the law.

My family, among many others, greatly benefits from independent facilitation and planning support. Through independent facilitation and planning guidance provided by an organization such as Families for a Secure Future, our daughter participates, with the assistance of her family and a circle of support we call "Melissa's tribe," in directing her own life and making key decisions. The focus is on her strengths and interests, but it also identifies her vulnerabilities and establishes goals for her future.

Focused, goal-directed planning supports need to be provided at the point that individuals are determined eligible for direct funding or services, and it needs to be provided on an ongoing basis. Life goes on even while waiting for funding and services to become available. Providing planning supports at the point of eligibility makes it possible for individuals, their families and caregivers to make truly informed decisions between direct funding and traditional services.

After direct funding is awarded, the professional assistance provided by facilitators helps individuals and families to be more accountable. Facilitators help develop systems for tracking where money is spent. They help individuals and their families think about how their lives might unfold so they can make plans to move forward. They help individuals and families to be accountable for their stated goals.

1020

The wage disparity that exists between workers hired by families and workers hired by union-supported agencies is large. Families need to be creative in supporting workers in their work, which can be isolating. Independent facilitators, such as Families for a Secure Future, help with this by conducting workshops that allow workers to meet others doing similar work and by assisting families to create a positive and safe work environment.

Planning and facilitation can assist a person to build their personal network, strengthen family and other significant relationships, and find meaningful ways to assist the individual to contribute to their communities. This is consistent with Bill 77's aim of enhancing citizenship by working to shift reliance for support away from government funding and towards natural supports. Other kinds of supports and services are provided for in the legislation. Please add independent facilitation and planning.

When supports are more individualized, we have seen time and time again the growth of the individual in ways previously unimagined. Since her days attending Brownies and taking swimming lessons with her peers, my daughter has grown up to live in her own home. Remember, this is a woman who has physical and developmental disabilities that require somebody to be available to her at all times. She is well known at her local haunts, she sits on the local accessibility advisory committee and volunteers in the community.

The experience of people moving out of large institutions also presents us with ample proof that people grow in their independence when they are connected to their communities. All of this has been my family's experience and that of the many other families in this province who have independent facilitation planning.

Is choosing the direct funding option the easier option for families? Probably not. I would believe many families would agree. But life isn't always easy, and people don't shy away from difficulties. Intermittent reinforcement is a strong motivator. Seeing people with developmental disabilities live in our communities improves our society. Supporting the direct funding option through independent facilitation and planning through legislation makes ethical and financial sense.

My third point is short, but no less important. Direct funding should be provided to a person in a manner so that if they choose to move to a different community or change who they accept their services from, they can do so without penalty. Direct funding must be portable and accessible. All citizens get to choose where to live and the services they wish to accept; why not people with developmental disabilities? The ministry should do as it promises, and "honour the choices people and their families make about living in the community to best suit their needs."

Bill 77 would be greatly enhanced with the addition of these provisions for legal capacity, assistance with person-directed planning through independent facilitation and portability of direct funding. Doing so addresses, among other things, some of the concerns with wait lists, protection of the individual, accountability for funding received and adherence to stated goals. I would urge the committee to consider revising the draft bill to bolster its already strong steps towards transforming supports and services to people with developmental disabilities in Ontario. Thank you for your attention.

I do have a written submission, but haven't had a chance to get copies made to distribute to you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Kitchen. We have about a minute or so per side, with Mr. Prue to begin.

Mr. Michael Prue: Just on the last issue of portability, did you personally have any problems with

portability in the past?

Ms. Melanie Kitchen: I haven't needed to exercise that option, because our family is very rooted in our community, so we don't see ourselves moving. But I know it has been an issue for other individuals.

Mr. Michael Prue: What would you like to see in the legislation that speaks to the problem of portability?

Ms. Melanie Kitchen: I think the important part is that when it's in the legislation, rather than as part of policy or regulation, then it has the full force of the law behind it. That, I think, is really important.

Mr. Michael Prue: So you would like to see that in the legislation itself?

Ms. Melanie Kitchen: I think it would enhance the legislation, yes.

Mr. Michael Prue: Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Mr. Ramal?

Mr. Khalil Ramal: Thank you very much for your presentation. I think you know the intent of the bill. As you know, its aim is to enhance services for people with disabilities and to support families who are getting old and need some kind of support. Plus, we want to put in place individual funding in order to give families the portability you mentioned to choose a service they think is good for their loved one. Do you think this whole bill in general, if we had some kind of adjustment to it, will serve your needs and other families' needs?

Ms. Melanie Kitchen: I think so. I think it is really exciting to have this bill, and particularly to have so much input over the last several years from the community.

Mr. Khalil Ramal: Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: Thank you, Ms. Kitchen. I wanted you to expand a bit on the independent facilitator and planning support, and specifically how you see that and something that you have been able to successfully incorporate into—what is it, Melissa's tribe?—the application centres. How would the two work together so that, in your case, your daughter is best served?

Ms. Melanie Kitchen: I think it needs to be independent, apart from the application centre and apart from agencies providing services and bricks and mortar, because it's too difficult, I think, to be really creative and to see what the other community options are when that kind of planning is associated with a specific agency. It's only natural that those agencies are then going to think first and foremost of how their particular agency can support an individual to meet their goals. That's not always the best way. I think having it completely separate allows for greater creativity and I think—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Kitchen, for your deputation on behalf of the number of individuals you've spoken about today.

I'll just canvass for a moment: Is Sid Ryan, president of the Ontario division of CUPE, present either in this

room or watching next door? If you materialize, you'll be accommodated, but I think we have now our next presenter, Ms. Patricia MacFarlane. Do we have Mr. Peter Marrese or Chris Bedwell? Is Dr. Glenn Rampton of Kerry's Place Autism Services present?

So one more time: Sid Ryan, Patricia MacFarlane, Peter Marrese, Chris Bedwell or Dr. Glenn Rampton.

KERRY'S PLACE AUTISM SERVICES

The Chair (Mr. Shafiq Qaadri): Are you Dr. Glenn Rampton?

Dr. Glenn Rampton: Yes.

The Chair (Mr. Shafiq Qaadri): Welcome. Dr. Glenn Rampton is the chief executive officer of Kerry's Place Autism Services. I would invite you to begin your deputation. As you may or may not have seen, you have 15 minutes in which to make your presentation. I understand you have a colleague who is coming—present, not present?

Dr. Glenn Rampton: I have two colleagues. We're a bit early.

The Chair (Mr. Shafiq Qaadri): You are.

Dr. Glenn Rampton: I think we were on for 11:45, so they haven't arrived yet.

The Chair (Mr. Shafiq Qaadri): I invite you to begin now: 15 minutes.

Dr. Glenn Rampton: Thank you. Kerry's Place Autism Services was founded by a group of parents in 1974 who did not feel that the supports and services at the time adequately met the needs of their sons and daughters with autism spectrum disorder.

We've grown and evolved so that we're currently the largest agency in Ontario providing specialized supports and services to more than 3,500 individuals and their families of all ages across the autism spectrum. We now support more than 3,000 individuals and their families through a broad variety of community supports, more than 150 individuals through a continuum of residential options, and more than 20 individuals in four treatment centres situated in each of the four regions with which we have services contracts with MCSS and MCYS.

In recent years, generic developmental services agencies have had to assume responsibility for a large proportion of individuals with autism spectrum disorder, and Kerry's Place has increasingly focused on the two ends of the spectrum: the crisis prevention and intervention and the harder to serve. We do share our expertise with other agencies through consultation, training and education.

1030

We feel that there are many good aspects to the bill, including the empowerment of individuals and families through the option of direct funding; the portability of funding; and expanding functional definitions of "developmental disability," which, among other features, will allow more people with Asperger's syndrome to access supports and services. Some have been excluded in the past.

We believe that the development and implementation of the networks of specialized care across the province for individuals with more complicated support needs will be a major step ahead, as will development of greater expertise and community capacity to support individuals in the developmental service sector, including those with autism spectrum disorder, through greater access to professionals, video conferencing and other aspects of the networks of specialized care.

Though we're encouraged by Bill 77 and the government's current program to transform supports and services, we do have some cautions and some concerns. Among those are that in 2003 the separation of developmental services and children's services created potential discontinuities of supports and services for children with a developmental disability and their families as individuals reach adulthood. To compensate for this, it will be important that Bill 77 can form one component of an integrated legislative framework to enable lifelong planning and access to supports across sectors, including mental health, education and justice, as well as community and social services and children's services.

More stringent standards and accountability mechanisms must be fairly and consistently applied to any entities providing supports under the bill, not just transfer payment agencies. We don't really see this in the bill; we see more stringent guidelines being applied to transfer payment agencies, but not necessarily to for-profits and people who are going to be providing services through other means. We think that will be a problem.

Application centres: We're concerned that employees of the application centres may not have specific skills and knowledge to assess the highly complicated and specific and individualized needs of individuals with autism spectrum disorder. While they may introduce greater consistency and accountability to individuals and families, they should also continue to reflect the unique character, culture and priorities of the local communities that have informed the development of current access mechanisms. Realistic assessment must be undertaken of the funding required to enable application centres to perform their intended functions. It's hoped that this will not be a bureaucratic exercise, adding a lot more funding to the administrative side of the house and detracting from supports and services.

Without appropriate standards, families receiving direct funding may be vulnerable to providers who do not have the appropriate capacity to support individuals with complex needs. Specialized providers such as Kerry's Place Autism Services must be able to continue working with families and individuals to determine their needs and develop effective, evidence-based, individualized strategies to support these needs.

As noted previously, Bill 77 introduces additional accountability and reporting requirements for the transfer payment sector. We don't object to these; however, these are coupled with stronger ministry powers to direct the work of transfer payment agencies. While Kerry's Place Autism Services acknowledges the need for improved

accountability and quality assurance mechanisms, our concern is that Bill 77 may create onerous expectations for transfer payment agencies and negatively impact the dynamic between the ministry and the governance boards of agencies, not to mention the relationship between boards and individuals.

For example, Bill 77 not only references pre-existing reporting requirements but also obligates transfer payment agencies to provide whatever mechanisms the ministry wants, whenever it wants, in whatever form it wants. The benefits of additional reporting of this type may be outweighed by the burden placed on transfer payment agencies which struggle to meet current reporting requirements within existing administrative resources. Rather than adding a host of additional reporting requirements, the ministry should consider precisely what sort of reports and information it requires and consolidate these into one set of common monitoring tools. Bill 77 also grants expanded powers to ministry inspectors. These may impact upon the privacy and rights of individuals and do not adequately acknowledge that group homes and other residential options are in fact people's homes.

Broader governance issues: Bill 77 grants sweeping powers to MCSS and establishes stringent potential consequences for perceived failure to meet the requirements of the act, regulations or policy directives. These include revoking of funding arrangements and the possibility of direct ministry takeover of a transfer payment agency's operations and resources.

Kerry's Place Autism Services regards these elements of Bill 77 as a continuation of the growing trend towards more direct control and intervention on the part of MCSS over transfer payment agencies. This has the potential to negatively affect the capacity and governance role of the boards of directors with whom the ministry maintains service contracts.

Overall, we encourage the government to consider carefully and critically as to whether there are aspects of Bill 77 that may in fact undermine the transfer payment system and threaten the independence and sustainability of sovereign corporations.

The Chair (Mr. Shafiq Qaadri): Thank you. We have considerable time, probably about two and a half minutes or so per side, beginning with the government. Dr. Ramal.

Mr. Khalil Ramal: Thank you for your presentation. I was listening to you carefully when you mentioned the expertise in the application centres. As you know, the application centres would be established in order to make it easier for families from across the province of Ontario to assess their kids and give them the ability to benefit from the services which exist already or that would be designed for their children.

The most important thing, I guess, in an application centre—I'm not sure if you agree with me or not—is they base their decisions on documentation and reports from medical experts. You don't think there's enough in place in order to create some kind of fairness when they make the decisions?

Dr. Glenn Rampton: I think that many people with children with autism spectrum disorders would say that the system doesn't understand and hasn't really understood their children. Sometimes that's professionals, but very often it's people in the generic developmental services system. The application centres have good features. We're just arguing that there needs to be expertise which understands the specific requirements of autism within them, and we haven't seen any provisions for that yet. In fact, the autism sector wasn't even included in the primary consultations which led to the act and led to the work thus far, so we're skeptical.

Mr. Khalil Ramal: What do you think about the bill in general? Will it serve the needs of people with a disability?

Dr. Glenn Rampton: We have really been advocates of individualized approaches, individualized funding and person-centred planning approaches and so on, and we've pioneered a lot of those sorts of things, so we're very much in favour of the tenor. We're just arguing that there needs to be thought given to make sure that the needs of people with autism are fully reflected. Quite frankly, in the sector up till now, they generally haven't been.

The Chair (Mr. Shafiq Qaadri): To Mrs. Elliott.

Mrs. Christine Elliott: I'm also particularly interested in your comments with respect to the application centres. I think there is some thought that once the diagnosis has been made or indicates that somebody medically qualifies, the centres will become bureaucratic money-handing-out organizations, but of course they're a lot more than that. In order to build a plan for someone to be able to successfully go from childhood into adulthood and be flexible enough as they grow older and their needs and interests change—and of course, there are legal and estate planning considerations. There are a lot of things, as I understand it, that need to be considered in order to build a life plan for someone. Could you expand on that a bit for the committee, please?

Dr. Glenn Rampton: I think they could be more than bureaucratic exercises, but it really depends on how they're implemented. They could be a place where money is handed out. I think it depends on the sensitivity and the way they're set up and the way they are commissioned, what they're meant to do. If they are just meant to be gatekeepers, that's what they'll become. We would argue that there needs to be a lot of thought put in, with the right people and the right expertise.

Mrs. Christine Elliott: Do you find that most families need that additional assistance, that it's not enough to just have the money, that they need the assistance to know what to do with it to get the best value and to do the best for their child with it?

Dr. Glenn Rampton: Our family has an adult daughter with autism, and it's been a struggle for the system to understand our needs. I think things like portability will be great. I think that having common standards across the province will be really good. But for all of

these provisions, the proof will be in their implementation, how they're exercised.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: There have been some concerns that the application centres may run into the same difficulties as CCACs: They're good in principle, but without the funds and without the expertise, they actually don't do what they're supposed to do. Is that your fear?

Dr. Glenn Rampton: That would be my fear, but it doesn't have to be that way; they could be implemented well. But that would be my fear, that they will become bureaucratic exercises and they will become gatekeepers. If there's not enough money, they'll be trying to dole out the same amount of money or a little bit more money across more people, and especially for some subpopulations and the more difficult-to-support populations, that would be very much a problem.

Mr. Michael Prue: I'd like you to expand. You said that you were not consulted or the autism community was not consulted at all at the preliminary stages of the bill. Did you seek to be heard?

Dr. Glenn Rampton: Yes, we did. Our board chair—who wanted to be here today; he probably will arrive a bit later—actually wrote a letter in that regard and we were told in the process of the consultations that later on we'd have a chance for input, but that's not the same as being there at the ground floor and having input into the foundation of the policy framework and the bill itself.

Mr. Michael Prue: Do you know of any other groups dealing with autism that were invited to the table?

Dr. Glenn Rampton: There were none. We made the same argument with Autism Ontario and so on and so forth, and now there is more of a tendency to consult, but at that time there wasn't. I don't think the special needs of folks with autism were recognized.

The Chair (Mr. Shafiq Qaadri): Thank you to you, Dr. Rampton, for your presence, deputation and of course for going early.

I would now invite, once again, Sid Ryan, if he's present either in this room or next door. Patricia MacFarlane? Peter Marrese and Chris Bedwell?

Mr. Dave Levac: Just for the sake of the committee, we might want to consider doing a short recess in order to provide for the clerk to make some phone calls and see if he can locate anybody else who's coming, because if they do not present now, we've used up our noon hour.

The Chair (Mr. Shafiq Qaadri): Fine. We will recess until 11 a.m.

The committee recessed from 1042 to 1103.

CANADIAN UNION OF PUBLIC EMPLOYEES, ONTARIO DIVISION

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen and colleagues, I would respectfully ask you to please assume your seats so that we may begin with the further deputations.

I would now, on behalf of the committee, like to call forward Mr. Sid Ryan, president of the Ontario division

of the Canadian Union of Public Employees, CUPE. Mr. Ryan, no doubt you have seen the protocol many times before. You'll have 15 minutes in which to make your presentation. Any time remaining will be evenly and firmly distributed among the parties afterward. I would invite you to introduce yourself and your colleagues and to please begin your deputation now.

Mr. Sid Ryan: Okay, thank you very much, Chair. My name is Sid Ryan. I'm the president of CUPE in Ontario. To my left is Kathy Johnson, a researcher in development and policy in the social services sector of CUPE, and Jim Beattie, who is a front-line worker and also chair of the social services committee dealing with developmental services.

We are here on behalf of 8,000 front-line workers providing services and supports to Ontarians who have a developmental disability and their families. Our members care deeply about their work and the individuals with whom they work. We've spent many years raising an awareness among the public and you, here at Queen's Park, about the problems that exist in the developmental services sector. These problems include inconsistency of supports that are available across the province. A family that lives in one community may have access to several options, while a family in another part of Ontario could wait for years before getting any help.

The sector has been seriously underfunded and faces serious problems with recruitment and retention of staff. That in turn affects the consistency of supports for individuals who need consistency from qualified workers who understand their individual complexities.

We participated in the consultations held by the Ministry of Community and Social Services on their plans for the transformation of developmental services. We hoped to see legislation that would resolve some of the existing problems and move forward with improved supports and services. We have been seriously disappointed. Not only does Bill 77 not address these problems, it proposes a model that we think would set back developmental services, putting these crucial supports for Ontario families on the same disastrous road as home care has taken in this province.

It has all the signs of following the home care path: the creation of a new level of bureaucracy in application centres, the potential for application centres to require service agencies to participate in competitive bidding, and allowing third parties to participate in direct funding arrangements. This latter point is just another way of introducing privatization to the sector by stealth.

The bill proposes the establishment of application centres that would assess individuals and decide whether they are eligible for services and supports, either through direct funding or through an agency. The move to a single point of access in Ontario's home care sector through the CCACs has resulted in service reductions for many recipients. Costs have increased as for-profit providers have usurped non-profit community-based providers under a competitive bidding system in which agencies are forced to compete for scarce funding dollars.

Less care, poor quality, low wages, casualization of the workforce, high rates of staff turnover and service reductions are the hallmark of the home care system today. We do not want to see that happen to individuals we support and their families. The developmental services sector is already struggling with some of these problems: low wages, casualization of the workforce, with about two thirds working part-time or relief, and high rates of staff turnover.

Bill 77 almost predicts service reductions. One of the most egregious sections in Bill 77 is part V, which actually entrenches lists in legislation. It's unbelievable that in Ontario, in 2008, our Legislature is prepared to tell persons with a disability that once they turn 18 years old they will have to wait for the supports that help them to be full members of our communities, because we are not prepared to spend the necessary dollars.

There are more than 13,000 Ontarians on waiting lists for residential services, day supports and other supports and services. Many families are waiting for five or more years for 24-hour residential service. Instead of fixing that problem, Bill 77 is trying to shift even more onto families through direct funding. Right now a minority of families avail themselves of individualized funding arrangements, and many of those have found the stress of managing these arrangements, along with taking on all the responsibilities that go with the role of employer, simply too much.

Our members who work on the front lines believe there must be individualized planning, but not individualized budgeting. Direct funding will contribute to destabilizing the existing decades-old, community-based agency infrastructure.

Service agencies provide oversight, they supervise their staff and ensure consistency in the quality of supports, and under Bill 77 they would be subject to strict accountability measures.

Neither individuals, families nor third party brokers would be subject to those same accountability measures. The bill would require them to account for how the money is spent, but there is no accountability regarding the qualifications of workers they may hire, or the quality of supports provided.

CUPE Ontario has submitted a written brief with recommendations for changing Bill 77. One of those recommendations is that those accountability measures apply to families and third parties as well as service agencies. I will not go through every recommendation here, but will highlight some of the specifics. At the back of the brief that we presented, you'll find all of the recommendations.

1110

It is time for Ontario to make a commitment to its residents who have a developmental disability. Bill 77 should be amended to mandate services so that those persons have every opportunity to fully participate in their communities. It is unacceptable to leave people languishing on waiting lists, especially when they've been receiving support as children under the Education Act or

the Child and Family Services Act. If an individual is assessed, found to be eligible and necessary supports and services identified, then those supports and services should be provided without delay. Section 19(3), which allows for the entrenchment of waiting lists, should be deleted.

We'd also like to see the removal of application centres as new entities separate from existing service agencies. Instead, agencies in a geographic area should work together on coordinated strategies to meet the goals of the bill. In some areas, such as Toronto, they are already collaborating to coordinate intake and assessments.

You will not be surprised to hear that CUPE members would like the bill to clearly ensure that public monies go only to not-for-profit service providers. We are concerned that the emphasis on direct funding will lead to a proliferation of private brokers and a repeat of the home care disaster.

Finally, we are seeking a commitment from the ministry that there will be open, transparent and comprehensive consultation on the regulations to be developed to support this legislation. The regulations must ensure that there is a common assessment tool across the province and consistent availability of support and services.

You have another crucial task as members of the Ontario Legislature. The general thrust of Bill 77 is to provide more supports and services to persons with a developmental disability and their families without investing additional funding into the system. You must press the government to continue improving on the investment that began with the 2007-08 budget. Without that investment, positive change will not occur.

In closing, CUPE's vision for a transformed and healthy developmental services sector includes a number of key elements. Quality supports for persons with a developmental disability can only be sustained through public, not-for-profit mandated services in an adequately funded community agency system, where workers are compensated fairly and provided training and skills enhancement opportunities. Supports must be tailored to meet the needs of individuals; that is, individualized planning, not direct funding.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ryan and your colleagues. We begin with the Conservative side. Ms. Jones.

Ms. Sylvia Jones: You mentioned that you are looking for individualized planning, but not individualized funding. Can you expand on how you see that working, either within the application centres—or maybe you have a different goal?

Ms. Kathy Johnson: Currently, in all the agencies that we have members working in, individualized planning has already been implemented and in fact is the focus of many of the organizations that deliver services. We believe that's the way to go and that that's very important. Our understanding is that the application centres are an opportunity to do an initial assessment, which the agencies have the capacity to do and in fact are

currently doing. Under the Toronto model, they have a consistent way that people access through the services to ensure that that happens.

Ms. Sylvia Jones: So would the individualized planning be staffers who work within the application centres?

Ms. Kathy Johnson: No. I think that what we're—

Ms. Sylvia Jones: In your ideal.

Ms. Kathy Johnson: In our ideal, it would be the people who provide the services who are trained to ensure that assessments and individualized programs can be developed. That would happen in a coordinated way. In our ideal, the tool to do that would be a consistent tool that would be used in every single assessment process in the province. What would happen then is that as they access those resources that are identified, in the event that there's going to be a reassessment, that reassessment would be done with the families and with the individual, with the workers who support them and are trained to help put those plans together.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Prue.

Mr. Michael Prue: How much time? You didn't state-

The Chair (Mr. Shafiq Qaadri): About two minutes or so.

Mr. Michael Prue: Okay. Your recommendation number 3 is to replace the proposed application centres with community-based agencies. Why do you think community-based agencies would do a better job?

Ms. Kathy Johnson: Because they're doing it now. In Toronto, the existing service providers have worked out a process where they have coordinated the resources around assessment, access and referral. Our concern is if you set up a parallel system, that drains already scarce resources into setting up a parallel system. Down in the Windsor area, for example, they've piloted another system, and what the workers have reported to us—in fact, the application centre employees come back to the workers in the agency, and they do the initial drafting because they know the individuals and the families. Then their individual draft ends up going back out to the outside application centre per se, which is really, again, a bleed away from resources from the people who can already do the work.

Mr. Michael Prue: You also are suggesting the deletion of subsection 19(3), waiting lists. This is a very contentious issue, waiting lists. You are suggesting that additional funds be given, similar to children's aid societies. How do the children's aid societies—can you explain to the committee how that works?

Ms. Kathy Johnson: Under children's aid societies, there's a funding formula that's based on service volumes. If agencies require more money than what they are allocated under section 14, they're able to actually come and ask for a review of those funds so that they ensure that the mandated services—and that's the key part that this legislation is missing. There is a certain level of service that's guaranteed to every child and every

family in the province under the children's aid/child welfare legislation. That's missing here.

The Chair (Mr. Shafiq Qaadri): I'll have to intervene here. Thank you, Mr. Prue. To the government side, Dr. Ramal.

Mr. Khalil Ramal: Thank you, Mr. Ryan, for your presentation. I have two things I want to talk to you about. First, the application centres that you mention: I want to tell you that the aim and the goal of the application centres is to create a unifying system across the province of Ontario to eliminate the bureaucracy which already exists because there are so many different duplications and we didn't have a method up to the present time. That's why the application centres will be created, to create that unifying method across the province of Ontario.

The second thing: As you may know or not, I worked with both systems. I worked with Community Living London as a staffer and also with the Ministry of Community and Social Services with a big facility back then when we had the facility in Woodstock. I remember from that day until now, so many people—and today especially, so many families came to us and supported us, the government and Bill 77, because the bill gives families the flexibility to choose the service. It doesn't mean they're going to go against the union or a unionized person, because as you know, we are dealing with a human touch, with human beings. The father or the mothersome of them—want to continue to care for their kids, for their loved ones, but they need some kind of financial support. That's why Bill 77, if passed, would give those families that support they're looking for and give them the chance to chose and decide which service would be good for their loved one.

Mr. Sid Ryan: With all due respect, that's Orwellian double-speak—

The Chair (Mr. Shafiq Qaadri): Very briefly, please.

Mr. Sid Ryan: —because when you talk about the CCAC model, it creates a level of bureaucracy. I know you're saying that the intent here is not to create bureaucracy, but in actual fact, if you bring in an application centre, you're adding a layer of bureaucracy which is going to suck money out of the system. Already, as you've just heard from our researcher, the agencies today are able to do the assessment themselves and all you need to do is find a tool, like you did in Toronto, to be able to coordinate—

The Chair (Mr. Shafiq Qaadri): With respect, I will have to intervene there. Thank you, Dr. Ramal. Thank you to you, Mr. Ryan and your colleagues.

Mr. Sid Ryan: Excuse me a second; I've got 30 seconds to answer. He took two minutes to ask the question. I get 30 seconds to answer it?

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ryan—

Mr. Sid Ryan: You could at least give me a chance— The Chair (Mr. Shafiq Qaadri): —on behalf of the committee, and for your testimony on behalf of the Canadian Union of Public Employees. I now invite our next presenter, Ms. Patricia MacFarlane, to please come forward.

Mr. Sid Ryan: It's good to hear you've got an opendoor policy here; you listen to your presentations.

The Chair (Mr. Shafiq Qaadri): We invite you to review it on your video, Mr. Ryan.

1120

PATRICIA MacFARLANE

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacFarlane, for coming forward, as well as for your written deputation, which has been distributed to the committee. As you've seen, you have 15 minutes in which to make your presentation—a firm 15 minutes—irrespective of entourage or photographic support. I will invite you to now begin.

Ms. Patricia MacFarlane: Honourable Chairman, ladies and gentlemen, my name is Patricia MacFarlane and I am here to speak for my daughter, Paula Campbell. Paula is 53 years of age and she is physically as well as mentally challenged. She is in a wheelchair and does not speak.

I am very grateful to the Ontario government for this opportunity to express what I feel about Bill 77. I will read further and give my honest opinion what could happen if this Bill 77 goes through without major changes to amend the bill. I think it will be a horrendous time, both for the clients in Ontario as well as for their families. You really have no idea what could take place. Our sons and daughters are very special. Even though some of them are not able to speak for themselves, they are very aware that something not good will be going on for them.

Paula lives in a group home on Union Avenue in Prince Albert near Port Perry. The staff there are very caring and even know who likes to have a bath or prefers a shower. They know what each of them likes to eat and even know what each one enjoys in music. Isn't that marvellous?

They have had some wonderful trips in their lives, like going to Florida and seeing Disneyland three times. New Orleans was great fun for them before the huge storm. They absolutely loved Niagara Falls. Elvis Presley's place was beautiful, with a delightful surrounding area. They went to Wonderland this summer and will spend time at a cottage in Wasaga Beach. How well we know what it is like to have some joy and fun in our own lives, and they are no different.

The staff at Union are like angels and really care for our family members. I can only say good things about them. They now bring Paula to Toronto once a month as I am no longer able to drive due to health reasons.

When you start to assess each client, will you be able to know all that I have told you? Will you be there to see what happens if you bring in the agencies that you think will be better? You had better think again. My friends in the government, you do not have a clue how these agencies like CCACs operate. I have heard many complaints about them and the lack of work accomplished.

This past year, I had a severe fall and had to have such an agency too. I finally had to let them go for what they were not doing. Do you realize the amount of caring and work that is done each day at Union by the staff? No, I do not think you do. If you did, this nonsensical bill would not even be on the docket. Have you given any consideration to all the staff that would be needed? Even now, as we speak, there are flyers going to Union Avenue group home asking staff for help in regard to the care for their family members. There is not enough good and decent help available for these people.

If you bring in agencies like we have in Toronto, God help our family members. These people are not trained and not caring. In Toronto, some of the agencies are paying \$10 per hour, therefore attracting the people we do not wish to look after the clients at Union or anywhere else.

Have you looked at the parents who are now aging rapidly? How do you think they are going to search for help when there are so few trained staff available? Will they have the energy to take this over? I think not. You will spend a fortune on something which will probably never work and will waste money.

I now ask you to search your hearts and use all the intelligence you have to rethink this very serious situation that you are planning. I am not qualified to tell you what would be a better solution to all these problems, but I do suggest that they need agencies like Central Seven with well-trained and well-educated staff. Clients would be much better treated than what you are suggesting for them. Fund more money for these agencies. Central Seven is an agency that oversees some group homes in the Durham area. They are well organized and make sure our family members are well taken care of. They are located in Port Perry. The clients receive physicals, dental visits and eye examinations throughout the year. We have an assessment for Paula every year showing the improvement she has made and what plans they have for Paula in the coming year. The home is well decorated and very clean, making it a very special place for each of them. All repairs are kept up. So you see, if something is working well, why change it?

In closing, I ask you to read the information from Yahoo! Mail called Parents' Concerns. Also read CUPE's recommendations on Bill 77, which will contribute to the improvement of developmental services in Ontario. To my mind, these are excellent recommendations.

Thank you all for listening.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll have a generous amount of time, about three minutes per side, beginning with Mr. Prue.

Mr. Michael Prue: How long has your daughter been in this home?

Ms. Patricia MacFarlane: Since 1989.

Mr. Michael Prue: Have you ever had any difficulties or problems with them?

Ms. Patricia MacFarlane: Never.

Mr. Michael Prue: Do you foresee difficulties or problems developing if you are required to go to an assessment centre or have your daughter assessed?

Ms. Patricia MacFarlane: Yes.

Mr. Michael Prue: Do you think she needs to be assessed again, or are you happy with the assessment that has taken place up to this point?

Ms. Patricia MacFarlane: I have an assessment on her every year. I see her once a month, and I'm very happy with her health. She has lovely pink cheeks, she's kept very nicely dressed, and I'm just so happy with her care.

Mr. Michael Prue: This bill doesn't have a financial aspect to it; the government members say they'll get on to that in a year or so, after they've done some studies. Do you think that more money needs to be spent in this sector?

Ms. Patricia MacFarlane: Definitely. They probably should get a raise this year. These people work harder than RNs do in a general hospital. They have to lift these children and they're very heavy. They have to feed many of them. Yes, I think there would be a problem unless they do some funding. I think it's a good idea.

Mr. Michael Prue: You made a comment about \$10 an hour. Do you know how much the staff at Union are

paid?

Ms. Patricia MacFarlane: Not totally. I don't ask questions. If they want to tell me, that's fine. But I know it's not a whole lot. An RN makes much, much more. They have young people going in to help who are trying to get their education on the side, but then they leave because we're not paying them enough. It's hard to see them go, and it's hard for them to leave. They love their work.

The Chair (Mr. Shafiq Qaadri): Mr. Levac.

Mr. Dave Levac: Thank you for your presentation and expressing your concerns. I heard very clearly that this is your honest opinion about what the bill's outcome would be. Can you point out some specifics that have offended you about this? You believe that the bill, if passed unamended, will adversely change your situation today?

Ms. Patricia MacFarlane: Yes. In this bill, you do not express very clearly what could happen to the people who are already in service and doing quite well.

Mr. Dave Levac: So you're assuming that it will be negative.

Ms. Patricia MacFarlane: I don't know.

Mr. Dave Levac: You also indicate in your presentation a few times that none of us have any idea of what's going on.

Ms. Patricia MacFarlane: I don't see how you would; you're not there.

Mr. Dave Levac: I wouldn't want to make assumptions about your family, but in terms of our experiences—and I would include members of the opposition—we would not make a generalization about what you're telling us. What I am concerned about is that you're

expressing a generalization that none of us have had any experience whatsoever in this field, and I would tell you very clearly and candidly that that's not a fact.

Ms. Patricia MacFarlane: That's okay, you have your opinion.

Mr. Dave Levac: It's not opinion, it's fact. It's fact that people have these experiences and that the staff and the individuals from the ministry are experts and they've had experiences as well. So I just would hope that you would not make those assumptions based on the fact that your emotions are telling you that no one knows what's going on.

Ms. Patricia MacFarlane: I can respect what you're saying.

Mr. Dave Levac: Thank you. I appreciate that.

What I think you're saying is you believe the situation that your daughter is presently in would be changed for the negative.

Ms. Patricia MacFarlane: I don't know. I'm hoping not.

Mr. Dave Levac: Okay. Your deputation is very challenging, and I'm sure that the staff have heard it very clearly. We'll make sure that we take a look at the circumstances behind the organizations you're speaking of. I agree with you that there needs to be a very strong component of the staffing issue. There have been raises recently, not as major as we would like them to be, but there have been some improvements. We've spent half a billion dollars improving the sector, with the hopes of continuing to do so.

1130

Ms. Patricia MacFarlane: Good. I respect that.

Mr. Dave Levac: Thank you very much.

Mrs. Christine Elliott: Thank you, Ms. MacFarlane, for your comments. I'm a member from Durham region, so I'm very familiar with the work that Central Seven does. They certainly enjoy a wonderful reputation in our community and they do excellent work.

I was very interested in the comments that you make in your paper, because it's very much a heartfelt view of a parent. What you really want—as all parents want for their children, whether they have special needs or not—is that they be seen as people with real needs and individual personalities. I think that, for all of us, is going to be important as we move forward with consideration of this legislation, to recognize that each child has their own special needs, wants and desires. We have to remember to take care of that and focus on that as we go through our deliberations, so that each child's needs are recognized through careful planning. Does that fairly encapsulate what you're saying?

Ms. Patricia MacFarlane: Thank you for that, and for acknowledging what I've said.

Mrs. Christine Elliott: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacFarlane, on behalf of the committee, for your presence, for sharing your personal story, as well as your written deputation.

PETER MARRESE CHRIS BEDWELL

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters. They are Peter Marrese and Chris Bedwell. If they are present, would they please come forward and be seated. Gentlemen, you've seen the protocol. You have 15 minutes in which to make your presentation. Should you have any videographers or photographers for immortalization, as has been done, please feel free. Please begin.

Mr. Peter Marrese: Good morning, everyone. My name is Peter Marrese. I want to thank you for inviting me to share some of our views on Bill 77. My friend, Chris Bedwell, is here with me. He's going to give you some feedback as well. We are honoured to be here today on behalf of our colleagues, who will be the ones most affected by this bill.

I was diagnosed with a developmental disability when I was 12 years old. Back in 1970, my parents and those who tried to help me did not know much about places like Community Living Toronto. Finally, when I was 18, I was introduced to the association. It was the intake workers who helped me find a support worker. My support worker has helped me to live more independently, like learning to cook, banking, finding a job that I like and am good at, and helped me to become an advocate for my colleagues.

This is why I think receiving direct support from an agency is important. The bill talks about application centres that would be responsible for assisting a person and helping them find supports and services best for them. Having been part of Community Living Toronto since the 1970s, I have formed many great relationships with the staff who help support me.

I feel that the intake staff, who work directly with agencies, can assist individuals better since they know the agency very well. They also get to know the support staff workers who help us do things such as banking, cooking, finding jobs, as well as helping us to reach our goals based on our interests.

The application centres could take away from personal relationships that intake workers have with our support staff and agencies. The support workers who help me care a lot about my choices. They believe that people with intellectual disabilities should, just like everyone else, have the right to choose where they get to live, what they get to do during the day and interests and hobbies that they like best. I believe that I should also be able to choose the agency that I want to be a part of and the support staff who will help me achieve my goals.

Through our agencies, my friends and I not only get a chance to do things like attend workshops and clubs run by our agencies, but also programs in our neighbourhoods that are not funded by the government. Because our agencies work closely with the neighbourhoods we live in, they can help us find activities we'd like to participate in, like painting, drama or sports clubs. If the application centre would handle these things, I'm not

sure that they could know of all the activities available to our community. This would make a lot of people sad and would leave some of us separated from the people in our neighbourhoods. It could also mean some people might not have access to programs and services while they are still on the waiting list for funding.

Being apart like that from our communities could only make it harder for us to live a normal life. It is why I think that application centres could not really know the agencies that help us. It also could take away from the control and choices that people with an intellectual disability have.

Another big problem with this for my colleagues is quality of life. People who don't have disabilities can earn money without it being taken away. For the majority of us, who need extra help from the government to pay our rent, our bills, when we have a job, we are given much less than we deserve.

For a lot of my colleagues, things like groceries and coffee or even public transit are very hard to afford. It would be nice to see Bill 77 help us to live a better quality life. Right now, when people get their ODSP cheque, they barely have enough to live. If they have a job, half of that money they make is taken back by the government. None of my friends have extra money in the bank, even if they are working. I know that once in a while, some of my friends would love to do something fun, like watch a movie, without worrying about having enough money to buy things like groceries.

I would like to thank you for letting me speak to you about this bill. I hope that I helped you to understand the concerns some of my colleagues have about the bill, and I think it is great that you want to make a positive change in my life as well as everyone else who has a disability.

My friend Chris is also here today to speak to you. He'll talk about his experience living with a disability and his thoughts on Bill 77. Thank you.

Mr. Chris Bedwell: Thank you, Peter. Good morning, everybody. My name is Chris Bedwell and I would like to start by thanking you for this opportunity to speak on Bill 77.

I have looked over the bill and I am happy to see that the government is trying to improve services and supports for people who have developmental disabilities and their families. But at the same time, I have some concerns about Bill 77 and how it will affect my life and the lives of my friends and colleagues.

One of my main concerns about Bill 77 is the definition of developmental disability. According to the bill, a person with a developmental disability learns, understands and remembers at a slower pace than others, and this affects their ability to live without supports. Following this definition, I am a person with a developmental disability. However, the bill also says that a person must have these limits before they turn 18. I was not diagnosed until 2001, when I was 39. So I am wondering, does this mean I will not be able to receive funding or services under Bill 77, whether it be ratified or not?

There are many people like me who grew up in a time where we did not know as much about developmental disabilities as we do today. When I was young and going through school, I failed fourth grade twice. That seemed like just another school thing, but no one said I might have a disability. Back then, we also did not know much about services and supports that were available to people with developmental disabilities. I was lost between the cracks because I did not know about Community Living Toronto or how to access their services. There are many people like me who learn how to get help late in life, and I'm concerned that we might not receive support under Bill 77.

I would also ask, what will happen to people who come to Canada from different countries? In many countries there is not as much awareness even today about developmental disabilities. If someone 18 or older comes from another country where they have not been diagnosed with a developmental disability, does that mean they won't be able to receive funding or service in Canada?

Finally, what about people who develop a disability after the age of 18 like myself? Will these people be unable to get support because of Bill 77? I would like to see Bill 77's definition of people with a developmental disability changed or removed—that would be the age limit in this case—because it excludes many people who require support.

My second major concern about Bill 77 is that it limits the role of agencies that people like me have grown to trust. I can appreciate how important agencies are because when I was first brought in to Community Living Toronto, I had been living on the streets for five months. It was a constant struggle living on the streets, and if it had not been for Community Living and the good Samaritan who first picked me up, I would not be here today.

Because of the help I have received from agencies, I have a place to live, an opportunity to be involved in the community and a number of friends that I have met through agency programs.

I understand that under Bill 77 the government could put directors into place who would tell agencies and application centres how to work, who to support and how to give out funding. It is very important to me that the government work with these agencies in developing these policies. I have developed trust in the experience and knowledge of staff members at Community Living Toronto and similar agencies. I would be more comfortable if the government consulted the people who are already overseeing the agencies before making decisions about services and funding, and who will get them and how.

I would not be here today without support from the agencies. It's important for me to know that major changes to agencies and how they operate won't be made without first consulting the agencies, and that their experience and knowledge will be used wherever possible.

Those are my concerns about Bill 77. I would like to thank the government once again for trying to improve

support for people with a developmental disability and their families. I would like to thank everyone for giving me the opportunity to speak today about my concerns. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Bewdell. We'll have about a minute or so per side, with Dr. Ramal.

Mr. Chris Bedwell: Excuse me? It's Bedwell. Sorry, thank you.

The Chair (Mr. Shafiq Qaadri): Bedwell. Thank you.

Mr. Chris Bedwell: You're welcome.

Mr. Khalil Ramal: Thank you, Peter and Chris, for your presentation. Thank you very much for coming forward and sharing with us your experience. I want to assure you that the aim of Bill 77 is not to complicate the system but to make it easier, more accessible and more flexible for many people who want to choose different services. I want to assure you also, if you are receiving your services, it's not going to change; they will continue. The aim of Bill 77 is to give the chance to families and parents who want to look after their kids or members of their families and need support from the government. Thank you again, and be assured you'll be looked after.

Mr. Peter Marrese: You're welcome.

Ms. Sylvia Jones: Thank you, gentlemen. That was an excellent presentation. You're the first presentation that's talked about the definitions and the 18. You made a very reasoned argument as to why that should be amended, so we'll be watching that one to see if it can be changed.

The Chair (Mr. Shafiq Qaadri): To Mr. Prue.

Mr. Michael Prue: Yes, you were also the first person to raise the thorny issue of people who come from other countries, who immigrate to Canada, and the services that may or may not be available to adults and whether or not they had been diagnosed in their previous lands. Have you run into people like this? Do you have colleagues like this who are having difficulty getting assessed or getting the necessary services, people who did not grow up or live here until they were adults?

Mr. Chris Bedwell: Yes.

Mr. Peter Marrese: I'll give you that thing. In our agencies, we have parents who do not understand quality of life for their daughters and sons and there are terrible problems with them. We keep bringing in the multicultural-speaking staff and take staff supporting—that is a big issue.

Mr. Michael Prue: Thank you.

Mr. Peter Marrese: You're welcome.

The Chair (Mr. Shafiq Qaadri): Mr. Bedwell and Mr. Marrese, I'd like to thank you on behalf of the committee for your very powerful and important presentation and for coming forward and for any other deputation that you may be offering us in the future.

If there's no further business, this committee stands recessed until 1 p.m.

The committee recessed from 1144 to 1302.

CANADIAN ASSOCIATION FOR COMMUNITY LIVING

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, I'd invite you to please be seated so we can reconvene. As you know, we are the Standing Committee on Social Policy, meeting for consideration of Bill 77 to do with the disabilities act.

I'd now like to invite Michael Bach, if he is present. That's great. Mr. Bach, please come forward, and thank you for coming on behalf of the Canadian Association for Community Living. As you've perhaps seen the protocol, you have 15 minutes, firmly enforced, in which to make your presentation. Any time remaining will be distributed evenly amongst the parties for questions and comments. I'd invite you to please begin now.

Mr. Michael Bach: Thank you, honourable Chair and members of the standing committee. Thank you for the opportunity to present before you today.

The Canadian Association for Community Living is the national association that advocates for people with intellectual disabilities. We're a federation with local and provincial or territorial associations across the country. Community Living Ontario is our provincial member in Ontario. Community Living Ontario has submitted a brief and is presenting later this afternoon. By way of introduction, I just want to say we fully endorse and support and urge that the recommendations of Community Living Ontario be incorporated into the amendments.

We wanted an opportunity, also, as a national association, to present before this committee because this act speaks directly to the issue of disability supports, how people with intellectual disabilities are going to access those supports and how they're going to be delivered. We see this as fundamentally an issue of the citizenship and inclusion of people with intellectual disabilities. We believe that at this watershed moment, as large institutions are closing, Ontario is in an ideal position to take leadership in this country on establishing a disability support system that will truly advance the inclusion of Canadians with intellectual disabilities. That's how we have built, or attempted to build, a fair and equitable social justice framework in this country—by provincial jurisdictions learning from one another. We felt we wanted to take the opportunity to speak to the committee.

There are four issues that I'd like to emphasize in my presentation, and I would like to leave a few minutes for questions and answers:

—the explicit purpose of this legislation and the link between citizenship and disability supports and its reflection in the legislation;

—the elements of a direct funding system that need to be in place for direct funding to work; we've learned about those elements over 20 years of experience and research in this country, and I wanted to share a few comments on that;

—the importance of more explicit recognition of the issue of legal capacity so that people with intellectual dis-

abilities can, in fact, enter the agreements that are provided for under this legislation;

—the language of waiting lists in a piece of legislation like this that is to be visionary and to serve Ontario for generations to come.

The link between disability supports, inclusion and citizenship: We define disability supports as any good or service that a person with a disability requires to carry out the activities of daily life and to participate in the social, economic, cultural and political life of their communities. For someone with a mobility impairment or disability, that disability support could be a wheelchair. For someone who has certain degenerative neurological conditions, the disability support could simply be an air conditioner. For many people with intellectual disabilities, the provision of disability support is personal assistance for access to education or participation in the community and in the workplace.

There's a fundamental link between access to disability supports and citizenship, yet the legislation makes no reference to that link. Our concern is that, as it seeks to establish a kind of watershed moment in the history of this province and really address and confront the legacies of institutions that people still live with and the legacies of law and policy in this province that have left so many people with intellectual disabilities isolated and alone in their communities, this legislation needs to be about more than the machinery of services. Provision of services is in the service of something. It's in the service, we believe, of full citizenship and inclusion, and we would urge that a legislative purpose be incorporated into the act. We think the language that the government used in launching its transformation exercise, of which Bill 77 is really the legislative culmination, would serve well as the starting point for that language.

Principle number one that the government articulated for the transformation exercise was: "Citizenship—supports for people who have a developmental disability promote self-determination and participation in all aspects of community life."

Simply and clearly stated, we believe that kind of statement should be incorporated into the legislation and would serve as a benchmark for accountability and for assessing the extent to which the provisions this act puts into place and the services it funds are in fact achieving that goal. We need to know the goal for which services are being funded because services have been extensively funded in this province in the past, but they've led to outcomes that we now fundamentally reject as a society. I think that experience, the institutional legacy of previous law and policy in this province, would advise us to incorporate a more explicit objective for the legislation.

If I could turn to the elements for direct funding to be effective, we know from experience, from demonstration projects in this province, across the country and indeed internationally, that to make direct funding realize its potential benefit—and research has demonstrated benefits: increased health, increased health status, increased

life expectations, increased capacity, participation, economic benefits etc.—you need more than a funding allocation mechanism. All that this legislation puts in place is a funding allocation mechanism through the application centres. We would urge that the legislation speak to the other pieces that we know and the research tells us are essential.

One is independent planning support. People don't plan for services; they plan for a life. Ministry-funded services may or may not play a role in a good life for a person with an intellectual disability. People need access to someone who can assist them in developing a life plan for themselves that identifies the range of supports in the generic community, the natural supports that they're going to require and the place, if any, of developmental services funded by this ministry.

1310

Currently, there's no provision in this framework to give people access to that planning support. We think that could be one of the prescribed sets of services that the ministry provides. As the research suggests, we think it also should be independent planning support, so that you've got someone outside of the funder, outside of the service agencies—which are doing good work—where you can go to help you develop a plan, so that that planner has no conflict of interest in developing a community-based plan for inclusion and support for that individual.

We think other services that should be added to the list of prescribed services are assistance in developing personal networks and relationships, which are a bridge to the community, assist people in making decisions and can assist people in exercising their legal capacity to enter those agreements. To a large extent, people with intellectual disabilities are excluded from their communities, isolated and alone in many instances. Given the institutional legacy, I think there's a positive duty on the state to invest in the capacity of personal networks to assist someone in creating a bridge to the community.

The whole issue of legal capacity is picked up to a large degree in Community Living Ontario's brief, and it will be in the brief that we submit later this week. People's right to supporting legal capacity has recently been recognized in the UN Convention on the Rights of Persons with Disabilities. That's a landmark convention in recognition of a right to supports. We think there needs to be some recognition in this legislation that people may need support to make decisions and to enter an agreement. Otherwise, there will be pressure to have people declared incapable of entering those agreements and to have a substitute appointed for that purpose. So we believe there should be recognition of the right to support. Again, that could be a prescribed service in the list of services.

We think for direct funding to work—and we think that's such an important element, and we congratulate the government on introducing that in this legislation—there needs to be some investment in community capacity so that we can develop the capacities of self-advocates, of

family networks, of generic services in the community and of service providers to develop this reform that this legislation envisages. Again, investment in community capacity could simply be another prescribed service.

Finally, we think the legislation should empower the minister to establish the mechanisms as needed for an application and approval process that will enable the provision of supports to meet that objective that I stated at the outset; that is, supports that will enable the self-determination and inclusion of people with intellectual disabilities.

Let's not fix the one and only mechanism in application centres; let's leave it open and empower the minister to establish mechanisms as needed, so that we can learn and innovate as we go.

With those comments, if there's any time left for questions, I'll close it off.

The Chair (Mr. Shafiq Qaadri): Thank you. We've got 90 seconds per side, beginning with the Conservatives. Ms. Jones.

Ms. Sylvia Jones: Because you are the first one representing all of Canada, can you enlighten the committee: Are there other examples where independent planning services and/or the application centres as set out in Bill 77 are in existence?

Mr. Michael Bach: Alberta has the most extensive development of direct funding for people with developmental disabilities. They also focused primarily on the funding allocation system. They do make funding available to purchase independent planners, but that system wasn't highly developed, and we're seeing that basically what's happening is direct funding contracts get rolled up into a service provider contract. The benefit of direct funding isn't being realized to the extent that it could be, and the evaluations are showing that. It's too early in other jurisdictions. BC is going down this route, as is New Brunswick, but it's still too early to see. I think that there are some demonstrations in Ontario—in Windsor, in Toronto, in Thunder Bay—that have demonstrated in the evaluations the importance of independent planning.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: Just on that same point, in Windsor, in London, and in other places, they're doing it without a new mechanism that's being proposed by this bill. Is it successful?

Mr. Michael Bach: I've been involved in the evaluations prior to my current position, and others have conducted evaluations, and the provision of both independent planning and direct funding has shown huge benefits in this province both for people with intellectual disabilities and for their families.

There were also a number of lessons that are being learned about how you manage the allocation of funding fairly, how you ensure that people have access to the planning support that they need, but in principle those demonstrations have proven that these kinds of mechanisms work and have the intended benefits.

Mr. Michael Prue: But this is being done without the new application centres, as envisioned?

Mr. Michael Bach: Yes, but they've been demonstration centres. So there have been provisions that have been set up, either under an area office of the ministry or through a demonstration project like the project with Family Service Association of Toronto, to manage this exercise. You do need some mechanism. They remain demonstration initiatives that can't really grow into something more systemic without a legislative framework. That has certainly been the direction that was taken in Alberta and British Columbia, and anticipated now in New Brunswick. So you need some mechanism, I think, some legislative framework to put this into place.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. Dr. Ramal.

Mr. Khalil Ramal: Thank you, Mr. Bach, for your presentation. I think it's important that a person like yourself has the ability to work with all the associations across the country and then give some kind of comparative ideas and opinions. So you think, then, that the application centre is very important to unify the eligibility?

Mr. Michael Bach: There needs to be some process for determining eligibility and allocating funding. I believe that that should firmly rest with the government. The status of these application centres isn't entirely clear to me in the legislation. I think it would be a mistake for the government to give that power away. Government's responsibility is to allocate resources and to make tough decisions. I don't think that job should be given away to the community. It remains, fundamentally, a political act and decision. In terms of accountability for the funds allocated and how they're allocated, it should remain with the government. That's certainly my view.

Mr. Khalil Ramal: So you talk about citizenship.

Mr. Michael Bach: Citizenship? Yes.

Mr. Khalil Ramal: If, hopefully, this bill passes as it is, I think it will strengthen the citizenship idea and philosophy behind the whole concept of this bill. You don't think this bill is good enough to strengthen the citizenship idea?

Mr. Michael Bach: I think that it has the potential, but needs to state clearly that the purpose of funding services is to advance the full participation—

The Chair (Mr. Shafiq Qaadri): I have to intervene there. Thank you, Dr. Ramal. Thank you, as well, Mr. Bach, for coming by and testifying on behalf of the Canadian Association for Community Living.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 2191

The Chair (Mr. Shafiq Qaadri): I now would like to invite on behalf of the committee Mr. Edgar Godoy and Teresa Colangelo, if they're present, to please come forward and offer their testimony on behalf of CUPE, Canadian Union of Public Employees, Local 2191, Toronto. Mr. Godoy, as you've seen, you have 15 minutes in which to make your presentation. Of course, if

your colleague materializes, she is welcome. I would invite you to begin now.

Mr. Edgar Godoy: Thanks. I have been working as a front-line worker in this sector for at least the last 20 years. I started an Iranian foundation in the late 1980s. Then, since 1992, I have been working for Community Living Toronto.

CUPE Local 2191 represents 1,200 front-line employees working for Community Living Toronto in the greater Toronto area. Our local is also the largest one in the developing services sector in Ontario. Our members deliver a large variety of services, including early child-hood education, vocational counselling, employment support training and skills development, residential and vocational supports, as well as semi-independent living, maintenance of our facilities, individualized supports and respite services.

Those are generic terms to describe many of the multiple supports and services that we provide, including preparation of meals, taking care of their basic needs such as hygiene, training in finding jobs, and support in those jobs, as well as other basic needs. Our members are committed to delivering these services within a holistic and integrated approach, which includes individual personal planning, advocacy, empowerment and community participation. Working closely with individual family members whenever possible is an important part of our job, developing those relationships. However, individuals with intellectual disabilities must be provided with universal access to needed services to ensure full citizenship. These support services are best provided within a fully accountable public sector framework.

1320

Despite the challenges faced by our sector, including chronic underfunding, Community Living Toronto has come a long way since the days when parents and advocates were meeting in church basements and funding the supports needed for their loved ones with their own resources and/or charity. Services and supports have been put in place, but there are still systemic barriers such as lack of universal access, chronic underfunding, long waiting lists, inadequate training and high staff turnover.

Some of the concerns that my CUPE local, 2191, has regarding Bill 77 are as follows.

The Services for Persons with Disabilities Act, as it is being proposed, will not address those central issues which are negatively affecting people with support in the developmental services sector. Access, consistency in the staffing and accountability, which is so important to the individuals and families we support, are not addressed. In fact, there will be compounded problems, such as inconsistency in access and waiting lists.

In addition, staffing issues such as the casualization of our jobs, chronic underfunding, low wages, recruitment and retention of staff, WSIB protection, lack of pension and benefits, and health and safety issues in the workplace will become more prominent. For example, over the last decade, as a direct result of cuts to our sector, our local has seen a shift in our membership from full-time workers, comprising more than half of our membership to full-time staff now numbering fewer than half of the members. These casual workers have no benefits, no pension or other protections that are afforded to full-time workers but face the same challenges, including health and safety concerns and employment instability, which have a negative impact on the quality of service that we deliver. This hurts workers, the services we provide and, most importantly, the individuals and families we support.

The conditions under which we provide services will be compromised with the new service model entrenched within the act. Many association for community living, ACL, workers do not have pensions, as I already underlined. In our local, all part-time and relief casual workers, who are the majority of the membership, have no benefits, no pension. As a result of their low wages, they are unable to afford private pensions or retirement plans—for workers who are supporting the most vulnerable citizens of this province.

Our members as well as ACL workers across the province make significantly lower wages compared to the social service sector workers who do similar work. It is estimated, based on the survey by KPMG in January 2000, that workers in the developmental services field earn 25% less than other social workers who are doing essentially the same type of work. Despite—and I want to emphasize this—the government's recent allocation of additional funding for wage enhancements, salaries remain low. Chronic underfunding of this sector has forced employees to do more for less, which has had a negative impact on staff retention and recruitment as well as on the quality of services that we provide. Services and supports for persons with intellectual disabilities have always been lacking, and that's no secret to any of you, I hope.

Bill 77 does not safeguard against for-profit service providers setting up shop and financially benefiting from the scarce, minimal funding dollars that persons with developmental disabilities receive. This will impact on the quality and quantity of services delivered. There's little or no accountability in the proposed legislation for these third party brokers. There must be amendments to Bill 77 to safeguard against service providers profiting from people with intellectual disabilities.

Long-term, stable and consistent funding for the sector is the only way to deal with these issues that are affecting us on the delivery of services. Waiting lists have continued to grow despite the introduction of individualized funding some years ago. This approach to funding service delivery has not improved the lives of persons with developmental disabilities, as the funding often falls short of the individual's needs.

Individualized funding has created a number of additional challenges for parents and families who wish to manage their own funding. It has forced them to become employers, in such things as equipping, hiring, firing, disciplining, paying and making the appropriate tax deductions for staff who support their loved ones.

This individualized approach to funding has opened up liability to the individuals themselves or their families to be legally responsible for their staff. We support the need for families to have support in their homes. Making them employers will not make this happen.

Families should be able to rely on levels of support from the province, regardless of where they live. Access to service should not depend on how many resources are being used in any given area. If there is any specific identified need for support, then parents should not be left dangling on waiting lists for many years.

Our members are heartbroken. I personally have lived those experiences when we witnessed that the only way some individuals get off the waiting list is for their parents or caregivers to die. Then, not only are they dealing with the grief and loss of the people they have loved and who have always provided care for them, they also have to move into a living arrangement environment without the support of family, as they have died. We believe that's not right; that's not a way to provide services.

We're also very concerned that the bill does not explicitly state that no one who is currently receiving services will have those services decreased in any way. If the intent is that no existing support to individuals and families be lost, then section 40 must be rewritten.

We believe that not-for-profit agencies should receive the necessary funding to sustain and expand the supports and services that they provide. There needs to be an increase in the number of supports and services available to persons with intellectual disabilities to address serious shortfalls and the ever-growing waiting list. Staff must be paid decent wages with benefits, including pension plans and WSIB protection. The quality of supports and services must be maintained.

To conclude, Bill 77 will dramatically impact the way services and supports for people with intellectual disabilities have been provided in Ontario; particularly, forcing not-for-profit agencies to compete for scarce funding dollars, failing to legislate universal access in a mandated level of services for all persons with disabilities in our province, as well as failing to legislate a consistent assessment tool to address their needs.

In addition to what I have outlined on behalf of our 1,200 members, we also fully support the recommendations outlined in the CUPE Ontario brief submitted earlier today for your consideration.

1330

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Godoy. We have about a minute per side, beginning with Mr. Prue.

Mr. Michael Prue: I listened intently. The gist of your argument is that you do not believe that this bill is going to do anything but end up in privatizing services. Would I be correct in saying that?

Mr. Edgar Godoy: That's my understanding.

Mr. Michael Prue: Okay. From where do you get this? Is it because of the privatized services in home care

or the privatized services in the homes for the elderly? I mean, we've gone down this road before, so—

Mr. Edgar Godoy: We have had previous precedents, particularly in projects similar to the access centres being proposed today—the CCACs within the home care. Also, when the legislation doesn't establish that, for people who are already receiving those services, they will not be decreased and the creation of third parties that I would assume are for-profit, will change—

The Chair (Mr. Shafiq Qaadri): With respect, I will have to intervene there. To the government side. Dr. Ramal

Mr. Edgar Godoy: It's in the 15 minutes allocated to me here or to you? Because you will have time to debate the legislation.

The Chair (Mr. Shafiq Qaadri): Dr. Ramal, you have the floor.

Mr. Khalil Ramal: Thank you very much for your presentation. I listened to you carefully. You talked a lot about the relationship between the government and the union and the parents with the unions, but this bill is not about membership of the union or about how the union is going to be supported. It's not going to talk about this at all. We're talking about families, about human beings. So we're talking about parents. They have kids in their home. They want to continue to care for them, right? And they're looking to the government for support. How can you see this as a bad initiative and you or your local thinks that parents won't be able to do it? Can you tell me, explain to the people why—

Mr. Edgar Godoy: We're fully supporting parents here. That's why we're saying that we fundamentally believe that a publicly funded service—and extending the services of the agencies—

Mr. Khalil Ramal: But many families came this morning and focused on—

Mr. Edgar Godoy: —because of the waiting list issue. Agencies have not been able to address those issues. That's what parents continue—if you establish universal access, families will be able to have services and provide the funding to the existing agencies. We're not arguing with—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Godoy and Dr. Ramal. I now offer it to the Conservative side. Ms. Elliott.

Mrs. Christine Elliott: Thank you. I also have a question just with respect to the provision of services because you did speak a lot about individualized services and needs. Many parents and families have spoken to us very strongly about that, that perhaps they might choose different living arrangements for their children, that they might want their children to live more independently with other supports and services to really tailor-make a program for their children. Surely you wouldn't see that as being a bad thing. Would you take exception to that in any way?

Mr. Edgar Godoy: I think families deserve the choice, but should not be put in a difficult position where they have to compete for those resources. The issue here

is providing the resources for families that have been waiting for many years because successive governments have not addressed the issue of waiting lists and the needs of their children. Universal access will address it if it goes hand in hand with the proper funding from the government.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott, and thank you as well, Mr. Godoy, on your presentation on behalf of the Canadian Union of Public Employees.

AUTISM ONTARIO

The Chair (Mr. Shafiq Qaadri): I will now call our next presenter, Margaret Spoelstra, the executive director of Autism Ontario's provincial office.

Just before you begin, perhaps in answer to your tailend comment there, Mr. Godoy, yes, I thank you for reinforming this chamber that we have 15 minutes per presenter, strictly enforced, irrespective of what they personally believe they should be allocated for any other ulterior purpose across this province. This is what the subcommittee decided. This committee is travelling to four cities; we are hearing from probably upwards of dozens and dozens of different individuals. As I say, a statement was given to the CBC to this effect earlier today. I repeat: 15 minutes, strictly enforced.

Ms. Spoelstra, I invite you to begin now.

Ms. Margaret Spoelstra: Thank you. I'll stick to my 15 minutes.

The Chair (Mr. Shafiq Qaadri): You will.

Ms. Margaret Spoelstra: Thank you very much, committee, for hearing from Autism Ontario today.

For the past 35 years, Autism Ontario has been a leading source of information and referral on autism and one of the largest collective voices representing the autism community. Members are connected through a volunteer network of 30 chapters throughout Ontario. We represent thousands of families who have children and adults with autism spectrum disorder.

We are committed to increasing public awareness and addressing day-to-day issues faced by families who live with children with autism and the professionals with whom they interact. Our vision is acceptance and opportunities for all individuals on the autism spectrum.

We're very grateful for the opportunity to speak to this bill and that it's been opened again. Many years ago, when rates of autism were one in 1,000, Ontario was unable to meet the needs of this vulnerable population. Currently, one in 150 children are diagnosed with an ASD. Children with ASD grow up to be adults with ASD. Applied to Ontario's population, many of its 50,000 adult citizens will require the supports identified in the proposed legislation, in addition to many other health, education and community supports.

Ontarians with developmental disabilities need legislation that helps each individual to reach their goals and dreams, and allows them more choice and flexibility in the services and supports each receives. They and their families need a bill that fosters inclusion within the wider community and, equally important, encourages independence. It is admirable that this new legislation promotes citizenship, fairness, accessibility, accountability and sustainability. For these principles espoused by the Honourable Madeleine Meilleur to succeed, adequate funding must be forthcoming to fulfill the total obligations under this proposed legislation.

I want to make a note that we also support the paper that was produced by the provincial ad hoc working group on Bill 77, with the lead author Judith McGill. I just want to make that statement for the record as well.

The areas of concern that we have we'll speak to on individual items.

The first is on developmental disability and the term. We're grateful to see that the IQ score is no longer a prime consideration for eligibility. Previously, the benchmark was below 70. This definitely made higher-functioning individuals with ASD and Asperger's ineligible for services.

In the definition of developmental disabilities, mention is made that the disability was to have originated before the person reached 18 years of age. The many challenges faced by teens and adults and their families when facing an undereducated health care system will continue to mean that many people with ASD will not have been correctly diagnosed until adulthood, even though, by DSM IV diagnostic criteria, they would have met the required criteria for a diagnosis prior to their third birthday. It's our expectation that this systems capacity gap would not make such individuals ineligible under the current proposed definition of a developmental disability.

Regarding the professional and specialized services, employment and job training services, psychological services or any therapeutic services should be included as specialized services. There should be an appeal process to a third party outside the application centre if an individual does not believe the proposed services are an appropriate match for their needs. The term "services," which is mentioned frequently throughout the bill, should read "services and supports."

Regarding application centres, there is a potential conflict of interest when application centre staff manage available services, supports and funding at the same time as they determine services and allocation of funds. Staff may choose to fill current service vacancies, instead of looking for tailor-made services and supports to match individual needs. This is especially crucial for individuals with ASD and Asperger's, where more specialized and non-generic services and supports are vital.

When staff complete applications that conflict with assessment and allocation of funds and prioritization and when staff monitor satisfaction surveys related to services provided, then where is the accountability, or when they deal with appeals concerning services they provide? This should always be done by an outside third party.

In our view, it is unwise to have all of the listed roles set out in the bill undertaken by a single type of entity.

The government should limit the roles of the application centres, as well as institute a system of regulatory safeguards to deal with these conflicts of interest. If the application centre is also a service agency, choices facing the individual may be somewhat constrained.

The bill further confuses things by introducing the concept of a service coordinator without explanation. This role needs to be clarified, especially if that person may be given funds to purchase services.

It was brought to our attention that the application centres were meant to be cost-neutral. We're not sure entirely what that means. Does it mean that there will be a transfer of funds from those agencies no longer providing services that will be carried out by the application centres? Autism Ontario believes that the government must commit adequate resources so that the application centres will be in a position to maximize the services and supports necessary to meet the individual's specialized needs.

Regarding direct funding: Under Bill 77, direct funding means that funding for the benefit of a person with a developmental disability that is provided by the ministry through an application centre in accordance with a direct funding agreement, as described in section 11. This funding may be given directly to an individual with the assistance of a facilitator by the application centre or may be administered by the application centre for the benefit of the individual.

1340

What are the stated criteria upon which the stated direct funds are allocated? Will the funds be based on existing services and supports currently available, or will the application centre, with the assistance of the facilitator/individual planner, seek out specialized services and supports more suited to the individual's needs? Might there not be a conflict between the services and supports offered by the application centre/agency and the demands of the individual?

To ensure that well-qualified, trained staff can be hired by the individual, they have to be paid a liveable wage compared to staff in service agencies. Will the bill ensure this?

Individuals/families enter into a direct contract with MCSS for funding. For this process to be fair and equitable, the individual, family or advocate should have the assistance of an independent planner/facilitator in order for them to exercise their legal capacity, so that decisions are made in an informed manner.

Independent planning/facilitation should be available for families/individuals once they are eligible for funds to continue the process and to ensure optimum choice and control.

Further capacity to appropriately serve adults with ASD must be developed in rural and northern Ontario regions in order for the funding of eligible individuals to be meaningfully utilized. If you don't have access to services, with people who are knowledgeable, in a region, it just puts you between a rock and a hard place.

Application centre and development of service profile: Under the bill, the service profile would have to satisfy the provisions under the definition of "developmental disability." What are the qualifications of those working in application centres? Would they have had the training and education in ASD and Asperger's necessary for an appropriate understanding of the unique characteristics of this population? There should also be a process, using an independent third party, to appeal the ineligibility of an individual.

Regarding wait lists/prioritization, people's essential needs should not be addressed through wait lists and prioritization regarding "most needs" criteria. If application centres are premised on the inevitability of waiting lists, then they will never receive adequate funding. For equity and fairness, the focus should not be just on the neediest.

Without adequate funding, the majority of applicants will be denied service. Until legislation indicates that adults with developmental disabilities are entitled to treatments and supports that allow them to live with dignity in their communities, the challenges inherent in any wait list system will continue to create inequities, service decisions based on resources, and to ultimately rely on aging parents to be the backup and unfunded system of support for these vulnerable individuals.

Recognition of legal capacity/supported decision-making: The legal capacity of an individual should be recognized in the bill, along with providing supported decision-making with a planner or facilitator to ensure that people can enter into an agreement for direct funding without surrendering authority to a substitute decision-maker. Once the person with a disability is eligible and making the application, they should have whatever support is necessary in order for that person or family member to exercise their legal capacity to make decisions in an informed way.

With regard to inspections, we are pleased that the safety and security of adults with developmental disabilities is being protected via home inspections. The bill should ensure that any official entering the home of an adult with a developmental disability must secure a warrant based on reasonable assumptions of wrongdoing or serious neglect in the home. This should apply equally to all types of residences, including supported group home living residences, intensive support and people's private homes. We do have concerns about the potential conflict of interest if the people doing inspections are also employed by those running the home. The recent death of Tiffany Pinckney, a young adult with ASD left in the care of her family without monitoring, reminds us that no mechanism currently exists to keep such a tragic story from happening again in Ontario. There may be a role in this process for the Ombudsman.

Service profile: What will happen if the individual needs a service not available in their geographical area? Will an individual's service profile be updated regularly? Will the outcomes be measured to determine if the profile was accurate?

Regarding flexibility, once eligible funds are made available, they should not be denied if the individual

should want to use them in another accepted manner or if they move to another jurisdiction in Ontario.

Appeals: An appeal process independent of the application centre should be instituted, using an unbiased third party.

Finally, with regard to regulations, there should be an opportunity for public consultation when finalizing the regulations for Bill 77. The people establishing the regulations should have expertise in the full range of developmental disabilities, including autism spectrum disorders.

The Chair (Mr. Shafiq Qaadri): Thank you. We have about a minute and a half or so per side, beginning with the government. Mr. Levac.

Mr. Dave Levac: Thank you very much for your presentation. It was very thoughtful and logical thinking.

I'd like to ask a couple of very quick questions. Your indication of the entitlement to treatments—regarding waiting lists in hospital situations and settings, there's a triage that says that this person can wait longer than the other person because of the severity of the concern. Is there any kind of logic that you can accept in that case, because of the obvious resources—because if we spent millions and millions more dollars, we could lower the waiting list.

Ms. Margaret Spoelstra: Yes, absolutely. If someone is in a health crisis, that makes sense to us. But with autism spectrum disorders, when supports aren't in place, things can rapidly deteriorate and you'll find yourself spending phenomenal amounts of money to support the problem situation that arises.

Mr. Dave Levac: And my last question is on inspections. We give warrantless entry permission in many cases. We're doing that in Bill 50 for the SPCA. With permission of the person in the home, you can get a warrantless entry. Is that not a good thing to do? If you tell people you're getting a warrant, sometimes you can't get them as quickly as you want to, and other times you're alerting the person that there's trouble coming. My perspective, quite frankly, would be for the person who is being abused, that we need to get in there and catch them doing bad things to the client. That would be my interpretation. Could you see a way to accept warrantless entries if it was done in that manner?

Ms. Margaret Spoelstra: It could be, but I would suspect that in the cases for individuals such as Tiffany Pinckney, neglect is more the issue.

Mr. Dave Levac: It's long-lasting?

Ms. Margaret Spoelstra: Yes.

Mr. Dave Levac: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Levac. To the Conservative side, Ms. Elliott.

Mrs. Christine Elliott: Hello, Margaret. Thank you very much for your excellent presentation. You've really highlighted some of the concerns that have been brought forward with respect to this bill by several groups, particularly the role that's to be played by the application centres and the role of the independent third party facilitator, which of course is not provided for in this legislation. I hope that is something that will be clarified

in the course of these hearings because I would certainly agree with you that it's not just a simple transfer payment agency; it's going to be a matter of building a plan which includes many aspects of a person's life. You're building the life, not the service.

Ms. Margaret Spoelstra: Exactly. Mrs. Christine Elliott: Thank you.

Mr. Michael Prue: Again, I question the thorny issue—down to wait lists. It's the first time I've ever seen those incorporated in a bill and I'm wondering what possible reason the government could have. Have they discussed with you why they're putting a wait list in a bill?

Ms. Margaret Spoelstra: It's a mystery to us. To even establish one in the language doesn't really make sense to us. There are people who all need these services.

Mr. Michael Prue: The government builds housing. I didn't see any wait list—although there is one for housing, I don't see it in any other bill. Will this have an impact on delivery of services if it is incorporated and becomes institutionalized?

Ms. Margaret Spoelstra: Yes. I think there will be people waiting and people who never receive services. That's currently the case. There are families who don't receive what they need for their adult children.

Mr. Michael Prue: We have heard from another deputant that there are 1,500 children with autism being served and 1,100 on a wait list. Is this tantamount to

keeping this kind of thing going?

Ms. Margaret Spoelstra: And the numbers will just increase, particularly as these young people become adults. I can't even imagine—as we realize the higher rates at which the children are being referred in the schools and reflecting the prevalence rates of 1 in 150, we'll have even more people waiting for longer periods of time.

Mr. Michael Prue: What do you think they should do instead of having a wait list? We've had one suggestion that groups could come forward and ask for additional

funding, such as happens in children's aid.

The Chair (Mr. Shafiq Qaadri): With respect, Mr. Prue, I'll have to intervene there. I'd like to thank you, Ms. Spoelstra, on behalf of the committee, for coming forward with your deputation from Autism Ontario, the provincial office, and for accepting the timing situation without protest.

Ms. Margaret Spoelstra: I could have protested.

ONTARIO AGENCIES SUPPORTING INDIVIDUALS WITH SPECIAL NEEDS

The Chair (Mr. Shafiq Qaadri): I'd now like to invite Tracy Bedford of OASIS. Ms. Bedford, please come forward. As you've seen, you have 15 minutes in which to make your presentation. I invite you to begin now.

Ms. Ann Kenney: I'm Ann Kenney from Community Living South Muskoka, representing OASIS. Tracy booked the appointment for us.

OASIS is a provincial organization representing 140 agencies that provide supports to individuals and families

in the developmental sector. OASIS agencies support approximately 35,000 individuals and their families, employing 26,000 full-time, part-time and casual staff and utilizing \$800 million in MCSS funding.

OASIS members are pleased to see the ministry moving forward with updating the legislation for the system of support for individuals with developmental disabilities. Particularly encouraging is the removal from the legislation of any reference to institutional care and, as a consequence, the discontinuation of the ministry as a direct service provider.

1350

The system envisioned is one which is fairer, levels the playing field and addresses the significant inconsistencies and resource inequities which have historical roots. The new system includes methods to more easily fund innovative approaches to the provision of support, and there is an emphasis on accountability for funds expended. There is intended to be greater consistency across the province, and this together with common tools will allow for the development of a better-planned and more easily managed provincial system. While there are some concerns with the concept of a waiting list being entrenched in the legislation, the intent to more systematically manage resources and demand for service is welcomed. There are attempts to make the transition as smooth as possible through grandparenting provisions, and this legislation signals to families that their concerns and viewpoints have been heard by the government.

There are a number of issues we would like to raise which we believe will make the legislation stronger.

The bill would be improved by the introduction of a preamble outlining the intent and values that are driving this legislation. This bill, by the very nature of legislation of this type, must contemplate the most extreme and difficult situations and address how they will be dealt with. This results in the legislation sounding particularly punitive and focused on enforcement and punishment. This could be balanced by the inclusion of a preamble with value statements, moral guidance, spirit of intentions, scope and purpose, etc. Not only would that assist in guiding in the development of regulations, it would clearly communicate the very purpose of the act and the vision for the social change that is taking place in this sector.

Of particular concern to us are issues related to the role and governance of the agency system, particularly as outlined in sections 30 and 31, which allow for takeovers, thereby negating the authority and responsibility of the directors of independently incorporated organizations. A system where options and choices exist for individuals and their families is dependent on services being available.

The not-for-profit system relies on community support and on volunteers willing to take on the responsibilities and accountabilities of managing these organizations through boards of directors. These community agencies have developed in response to local need, and the tremendous diversity of Ontario is reflected in their individual bylaws, board composition, etc. We are very concerned that under Bill 77, as currently proposed, the province would have the authority to impose things like board composition on service agencies without regard for local differences. It is important to note that similar authority does not extend to application centres or third party providers within the legislation. Again, if the intent is provided, that might clarify why service agencies are the focus of this particular section.

There are a number of liability-related issues in the current draft of the bill. It is not clear where all of the liabilities lie in the case of third party agreements which flow through application centres. In the case of an appointed manager in a takeover situation, they are protected from any liability, but that is not the case for volunteers and staff managing the services on an ongoing basis. Given that the appointed manager is protected, it is unclear who is liable during a takeover situation.

Of particular concern is paragraph (c) of section 35(1), in which a person could be found guilty following a failure to comply with reporting requirements or quality assurance standards, even if the failure is unintentional. This might mean that a member of a board of directors could be held individually responsible for this transgression. We have a legal opinion that expresses concern that directors' liability insurance may not cover this particular situation.

As currently proposed, the legislation would appear to apply different standards for different types of service and employ different mechanisms depending on the method of funding, i.e., direct funding versus service agency. We are very supportive of the existence of clear standards for quality of care and believe that the same set of standards should be applied regardless of funding mechanism or service type. As currently drafted, the level of accountability appears higher for service agencies than any other part of the system. This will become a particularly difficult issue as third party and for-profit services become involved in the system and potentially have a lower level of standards to meet than service agencies.

The legislation is not entirely clear regarding the nature of relationships between various components of the system, especially the service agencies, application centres and third party providers. It would appear that the application centres may be setting priorities in isolation from the agencies providing service and the funding available. It is also not clear who will be providing assistance to families to make applications and who will receive funding to support the costs of managing this system. While much of this will be clarified through the drafting of regulations, the actual framework is somewhat confusing in regard to the role of the application centres. This confusion would be somewhat lessened if the act referred to "application process" rather than "application centre," moving the understanding to a series of activities rather than more narrowly defining it by a specific location.

In this sector, we have worked for years to move society's perception away from agency-operated group

homes where people are placed, toward an understanding that this is a person's home in which they live with supports, they make as many of their own decisions as possible and are assisted to do that, and they have the right to be fully engaged in community life. Therefore, we are extremely uncomfortable with subsection 27(2) of the act, which allows entry to an individual's home without warning. This indicates that people requiring significant support with daily living do not have the same rights to privacy afforded to all other members of society.

During 2007, the sector endured serious labour disputes which had significant implications for the very people being supported. Individuals had their homes picketed, relationships were damaged and trusts were broken. Given the nature of this sector and the vulnerability of many of the people supported, we believe the introduction of this bill provides a good opportunity to identify this as a no-strike sector, with provisions within the act to use alternative methods to deal with labour disputes.

We have been very supportive of the inclusive consultation which has occurred around the development of the transformation paper and the legislation. We are fully committed to continuing our work as partners with the ministry in developing the next phases of this process, including the regulations, policy directives and policy guidelines. We urge the ministry to lay out a clear process to ensure involvement of all stakeholders at the development phase of these important implementation pieces and to commit to broad-based consultation throughout the process. One quite successful approach is the one used by the Ministry of the Environment when they post information for feedback for a specified time period on the Internet. We strongly believe that the best results for the system will be achieved when stakeholders are involved right from the beginning in the development of these documents, rather than after they have been fully developed.

Bill 77 is quite silent on partnerships with other ministries and agencies such as LHINs, boards of education etc. While we understand that Bill 77 is only dealing with services funded by the Ministry of Community and Social Services for those individuals with developmental disabilities who are over 18, we remain concerned with the barriers this creates for families and communities attempting to do longer-term and more holistic planning. One clear example is that the government has divided responsibility between two ministries based on an age of 18, and each ministry is only responsible for its own segment of the population. What gets lost is the proactive transitional planning that can and should happen to ensure that the children and youth with developmental disabilities have a smooth transition into adulthood without having to start over with all new assessments, new plans etc.

There are a number of funding concerns which this proposed legislation raises. We are very supportive of the expanded definition of "eligibility" proposed in the bill to include individuals who need service but have been

excluded in the past. We do have concerns about the availability of additional funding to support these additional demands on the system.

Without knowing the implementation details related to application centres, it's hard to envision exactly what the system will look like and, consequently, what the costs will be. However, it is a concern that funding may be diverted from direct service to cover the administrative costs of processing applications, managing waiting lists etc.

It's not clear what the provisions will be for people currently receiving service. The legislation clearly indicates that their eligibility will be grandparented, but not necessarily their access, priority or level of service.

The act does include some internal appeals, which really involve a self-judgment process, whereby the organization making the original decision is also hearing the appeal. In other cases, appeals have to go the judicial route, which can be a lengthy, costly and quite inaccessible process. More equitable, transparent and fair would be a third party appeal mechanism for the various stages of decision-making that occur within the system. This would ensure that decisions are reviewed by an independent body and appeals are heard by a non-biased party. This body could also act as a processor of complaints and provide support for self-advocacy.

One concept that the bill is completely silent on is that of legal capacity. With the introduction of direct funding, there is an assumption that an individual has the capacity to enter into a contract. For some individuals, family members will be willing and able to take on this role, and for others, there will be no one available and that will mean that there is no access to this funding stream and the types of services which might be purchased with it.

OASIS looks forward to being an active participant in the modernizing of the developmental sector, being accountable to the individual and responding to their desire for a fair, equitable system providing for full citizenship within our communities.

The Chair (Mr. Shafiq Qaadri): Thank you. We have about a minute and a half per side, beginning with the Conservatives. Ms. Jones.

Ms. Sylvia Jones: You mentioned the need for a preamble in Bill 77, and you're not the first organization that has raised that. I know one group had talked about the UN convention on the rights. Can you tell me what you have in mind for OASIS?

1400

Ms. Ann Kenney: We didn't come up with any specific words, but we did feel that the ministry's intent around fairness, equitability, accessibility and accountability are words that should be there. But we also felt that it really gives value to the legislation and not just the punitive nature.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Prue.

Mr. Michael Prue: If the government put in a preamble, how would it, then, be able to explain a wait list?

Ms. Ann Kenney: I think wait lists may be inevitable for anything. I don't think that we have enough funding to do everything for everyone in this province. I think in any sector you're in, there is a wait list.

Mr. Michael Prue: Okay, but if you put in a preamble setting a lot of lofty goals, you couldn't allow a piece of legislation to then have a wait list in it, or could you?

Ms. Ann Kenney: I think that the current legislation

talks to eligibility, not entitlement.

Mr. Michael Prue: Okay. In terms of the issue of the application centres, other speakers have said it may be another level of bureaucracy, and they're not very com-

fortable with it. Do you see it that way?

Ms. Ann Kenney: It may be. It depends on how it rolls out. In some areas, it's currently working very well. One of the big concerns is how that would work in the north when places are so geographically diverse and there may only be one service provider existing. Would that then become duplication? That's also why we talk about an "application process." We believe the components that are identified as part of the application centre are very valuable.

Mr. Michael Prue: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. We'll move to the government side. Dr. Ramal.

Mr. Khalil Ramal: Even though the bill doesn't have a preamble, by defining developmental disabilities and eligibility, creating a single application assessment centre and providing funding directly to people, we believe as a government that that would define the aim and goal for this bill. You don't think it's enough for you and your organization?

Ms. Ann Kenney: I think we just found that the way it's written it becomes more punitive rather than embracing those goals. We do think that what the application centre is trying to do is a very lofty goal. The fact is that it will provide us with a way to actually identify the people who are waiting and assist them with what their needs are, and may give an ability to argue for more

funding for the sector.

Mr. Khalil Ramal: Yes, but as we're doing it right now, we have so many different duplications across Ontario in terms of assessment. So you'd be assessed in this area and you'd be eligible, and maybe in a different area you're not eligible. By creating an application centre for assessment across Ontario, it would unify the standards and the way that people would be assessed. You don't think it's fair for the families and people with disabilities?

Ms. Ann Kenney: I think the new system is fair.

Mr. Khalil Ramal: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Ramal

Just before you depart, Ms. Kenney, the powers that be need to know if OASIS stands for something?

Ms. Ann Kenney: It stands for Ontario Agencies Supporting Individuals with Special Needs.

The Chair (Mr. Shafiq Qaadri): We thank you deeply.

Ms. Ann Kenney: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you for coming forward on behalf of OASIS.

COMMUNITY LIVING TORONTO

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters to please come forward, Mr. Rick Strutt, president, and Mr. Bruce Rivers, CEO, of Community Living Ontario. Gentlemen, you've seen the protocol: You'll have 15 minutes in which to make your presentation. If you might just introduce yourselves for the purposes of Hansard recording. I'd invite you to begin now.

Mr. Rick Strutt: My name is Rick Strutt. I am the president of Community Living Toronto. I think you had mentioned it was Community Living Ontario. We're actually Community Living Toronto. Also presenting with me is our chief executive officer, Bruce Rivers.

For 60 years, Community Living Toronto has been a source of support for thousands of individuals who have a developmental disability and their families. Our association was formed in 1948, when a group of parents came together to find alternatives to placing their children in an institution. They formed the Parents Council for Retarded Children, and created the first community-based programs for children with a developmental disability.

Still true to that grassroots vision, we have grown into one of the largest organizations of its kind in North America, supporting almost 6,000 individuals and families in Toronto each year. Community Living Toronto has not only been a leader in developing innovative services that promote the full inclusion of adults and children in their communities, but also in finding ways to expand our capacity for service and collaborating with our community partners to create opportunities and resources for people in Toronto and across Ontario.

The introduction of Bill 77 marks a commendable step towards providing greater inclusion and choice for people with a developmental disability. We are pleased to offer feedback and input as the bill moves forward and a new foundation for the future is laid where individuals and families are more independent and involved in identifying the supports and services that they need to live fully within the community.

To capture this vision that will take us into the future, the bill should include a preamble that confirms the government's commitment to outline the entitlements and full inclusion of people with an intellectual disability. This preamble should describe the intent of the legislation and articulate that people with a developmental disability be recognized as valued citizens who ought to be supported financially and have the same opportunity to participate in all areas of life and community. A minimum standard that ensures a decent quality of life should be embedded in the legislation.

People with a developmental disability should not automatically enter our society's lowest income brackets. However, current guidelines within the ministry and the Ontario disability support program have made this a reality for 80% of people with a developmental disability who receive income support. Maximum earning levels for people with an intellectual disability are 40% below current recognized poverty levels in Ontario. That is compounded by a 50% clawback of their job earnings. Legislation should protect people with a developmental disability from inevitably entering a cycle of poverty and ensure that they have every opportunity to earn a decent wage, save for retirement and enjoy a quality of life that comes with financial stability.

Community Living Toronto fully supports and advocates personal choice for people with a developmental disability, and direct funding is an important element of true choice and inclusion. People should be able to choose where they live, what they do during the day, who they spend their time with and, most importantly, who supports them in achieving their goals.

However, what works for an individual and their family at one point may not be true months or years down the road. Whether an individual or family chooses direct funding or a voucher system connecting them to a community agency, Bill 77 should clearly define a mechanism for individuals to switch streams without penalty or interruption of service. This will reflect true flexibility and ensure we are not limiting people's choices as their needs and lives change.

The legislation also needs to consider different funding approaches that are reflective of a person's networks and support circle. Those without natural family and connections may require higher levels of service. Further, funding should be portable so that if an individual or family moves to a different location in Ontario, they do not have to re-apply for funding.

For 60 years, Community Living Toronto has been a key presence in the lives of thousands of people with a developmental disability looking for support, direction, access to services and resources in the community. We've also worked to change bylaws, schooling and daycare options, and expand people's development into the arts. Agencies like ours are closely connected to our communities and the services and supports available within them and often provide a full range of services and supports beyond those funded by the government. The legislation needs to recognize the value and resources that agencies bring to the lives of people with a developmental disability and requires great clarification regarding the transfer of funding to the agencies as it becomes available. The bill should also outline a process for stabilizing these agencies during the period of transition that will inevitably follow the implementation of new legislation.

There is little in the legislation that refers to agencies except for various measures regarding compliance and accountability. It is important to remember that agencies are an essential part of a person's independence and skill development and comprise a fundamental part of an individual's support circle.

With three different funding streams outlined in the legislation, regulations are necessary for each, under-

standing that regulations for families may differ in nature from regulations for core services provided by agencies. We suggest that rules governing accountability and compliance around performance standards, program outcomes and quality assurance measures be broadened to include common elements regardless of the funding stream, with sections specific to each funding stream. Ultimately, this will ensure that everyone who receives public funding is held to the same level of accountability.

Bruce is now going to tell you about the collaborative model in Toronto and how this relates to creation of application centres.

1410

Mr. Bruce Rivers: Thanks, Rick.

To begin with, we are hopeful that the creation of application centres will help to streamline the process of identifying and applying for supports and services. There will be one access point for services and supports for people and their families, and it will be easier to track information, gather statistics and compile a centralized database.

For the past several months, Community Living Toronto was a pilot agency for testing the standardized application and assessment tool. Our experience with this pilot showed us that the single assessment tool will do a better job of ensuring access while promoting choice and flexibility for individuals and families across the province. All of these strengths will certainly make for a more transparent and modernized system; however, it will likely not result in increased services for people and their families.

In the city of Toronto, 32 partner agencies delivering developmental services have been working together to develop a collaborative approach to access and service delivery. This system has been in place now for over 10 years. It has connected individuals and families to services and supports while reducing duplication, streamlining access and ensuring that the supports and services meet those individuals' needs and goals.

I'd like to tell you about Sally. Sally is in her 40s and was living with her elderly parents in Peterborough. Her mother developed Alzheimer's and had to be moved to a nursing home. To ease the burden on her father, Sally and her father moved to Toronto to live in a self-contained apartment in her brother's house. However, shortly after the move, her father fell ill and joined his wife in the nursing home back in Peterborough.

Sally's brother, unable to support her both financially and physically, did not know where to turn. Unfamiliar with the sector, he was eventually connected to the integrated response system, the coordinated access to developmental services in Toronto that is known as the Toronto collaborative. When he applied for services, an interim support worker was assigned for up to 10 hours immediately. That person helped him connect to respite services, and also helped them apply for special services at home funding, which they then received.

After talking with Sally and realizing she wanted to live as independently as possible, she was placed on a priority list for supported independent living. After close to a year, I'm happy to tell you that she is currently in the process of moving into a shared apartment with a roommate she has met and gets along with that is situated close to her brother.

The Toronto collaborative model has helped to reduce duplication. All information is entered into a single database that is shared between Toronto's 32 agencies. That increases service quality as staff have access to the same information. But it's more than keeping records and stats. Every person or family gets a visit from an interim coordinator or support worker who works at one of the 32 agencies to explain to them how the system works and to help them access funding as well as natural, community-based resources and respite. They're connected through this coordinator or support worker before they actually begin to receive what I would call formal services.

We believe that the success of the transformation in this legislation is contingent upon a framework that builds on the successes and strengths of the current system in Toronto as well as the rest of the collaborative efforts across Ontario, while emphasizing accountability to individuals and their families. We strongly recommend that Bill 77 recognize the value of collaborative approaches in moving towards transformation.

A proposed function of the application centres that would be best monitored by community agencies through their collaborative system is the management of wait lists. In Toronto, there are more than 2,700 people who are currently without day or residential supports.

I recently had the opportunity to meet two families who were on the wait list. Both were in crisis. One family from Mexico had recently come to Canada as refugees. While both families are on the wait list, they're not without service. The advantage of the collaborative model and the integrated response system in Toronto is that these families have been able to participate in family workshops and have received referrals to supported services at home as well as occupational and speech therapy. They're also receiving guidance and supports, sometimes from other families, as part of the parent network.

At Community Living Toronto and other agencies across Ontario, waiting on a list doesn't have to mean that an individual or family cannot receive some level of support. Agencies have extensive knowledge of resources available in the community and the individual can be supported to access those supports.

Community agencies also offer unique and innovative services to individuals and families that should be considered core services. Internet-based resources, like Community Living Toronto's connectability.ca website, offer online support, skill development, access to resources, tip sheets and professionals for families and individuals of all ages 24/7. Available for free to anyone with Internet access, it is a virtual community that expands capacity and connects people while they are waiting for funded services. When developing regulations on services and

supports funded by government, opportunities like connectability.ca ought to be considered.

When it comes to legislation and application centres, we suggest you keep it simple, focusing less on the structure and more on key functions and client outcomes. In these tough economic times, it is critical that we build on existing capacity like I've just described in Toronto. Assigning more functions to an application centre will require more staff and resources at a time when those are incredibly short.

Most of the functions of the application centres are already being provided through the current collaborative models. We recommend that application centres should be focused on determining eligibility, tracking data and waiting list statistics, while the actual management and co-ordination of wait lists and the provision of in-depth assessments be left to the community collaboration.

Finally, clear processes for designating application centres should be built into the legislation, along with a clear expectation that they not provide direct service.

Back to you, Rick.

Mr. Rick Strutt: There's nothing more frustrating than going through a detailed assessment process, only to sit for an indeterminate amount of time on a waiting list. There's also the likelihood that given the lengthy wait times, once the funding is available, the original assessment will no longer meet a person's needs.

In order to reduce stress on application centres, shorten wait lists, ease the frustration of people applying for support and expedite the application process, we recommend that there be a distinction between determining eligibility and providing assessments for individuals who are new to service. A shortened application process, followed by a full assessment only when funding is available, would reduce the strain on application centres. It would also result in more accurate assessments as people's needs and situations change.

For individuals who are already benefiting from services, it is expected they will continue to receive the same level of support. At the very least, the assessment process for these individuals should be shortened, as it is unlikely the application centres, especially in large metropolitan cities, will have the capacity to reassess the many individuals already receiving services.

The legislation should also include clear criteria for reassessment. Reassessment should occur only when a person's situation changes, and not be triggered by a shortage of resources. Community Living Toronto continually strives to ensure and extend the citizenship rights, entitlements and lifelong supports of individuals with an intellectual disability.

Central to all these rights is the notion that every individual should have the choice to make decisions pertaining to his or her life and to have personal control over how his or her life is conducted. We question whether the results of the assessment tool will be relevant to the person's life plan or whether the need for reassessment will be governed by the availability of resources.

Consideration must also be given to the changing needs of seniors with a developmental disability. Some individuals, such as those with Down syndrome, tend to age more quickly than the general population and have a much higher risk of diseases related to aging, such as Alzheimer's. Consideration for this group, who may very quickly realize a change in their situation and require an immediate reassessment, needs to be built into the legislation.

Person-directed planning is widely recognized as supporting a person in determining their goals: where they live, what they do during the day, who they spend their time with. People with a developmental disability are increasingly taking control over their lives. They are determining their life plan and drawing on a support circle of family, friends, community partners, volunteers and staff to support them in achieving their dreams.

Planning leads to a better quality of life, increased self-esteem and participation in the community. It is important that planning be built into the assessment process early on, before paid supports are identified and funding is allocated. Planning between the eligibility and assessment stage will result in more accurate funding and increased customer satisfaction.

The legislation—

The Chair (Mr. Shafiq Qaadri): Thank you, gentlemen. Thank you, Mr. Strutt and Mr. Rivers, for your deputation and for coming forward on behalf of Community Living Toronto.

Mr. Bruce Rivers: We have a submission that we

could bring forward.

The Chair (Mr. Shafiq Qaadri): Please bring it forward and we'll have it copied and distributed to members of the committee.

OPPORTUNITIES MISSISSAUGA FOR 21 PLUS

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward. They are Ronald Pruessen, chair, Sheila Swinton and Barbara Ashcroft, of Opportunities Mississauga for 21 Plus, OM21. Welcome to the members of OM21. As you've perhaps seen, you'll have 15 minutes in which to make your presentation, and I would invite you to please introduce yourselves individually for the purposes of Hansard recording. I would invite you to begin now. Incidentally, any written submissions, which you've already provided, thank you very much. Please begin.

1420

Mr. Ronald Pruessen: Thank you. I'm going to be joined by a couple of my colleagues in our organization to speak. Although there will be three of us speaking, I'm going to assure you that we're not planning to triple our 15 minutes, not that we'd get away with it, but that is not the intention at this point. I would also be anxious to refer to the fact that quite a number of our other members are in the overflow room next door, and it's good to have at least their virtual support behind us at this moment.

On behalf of Opportunities Mississauga for 21 Plus, we appreciate this chance to speak to your committee.

Our grassroots organization is eight years old and represents an ever-increasing number of Mississauga families—150 families by this point, in fact. We are the mothers, fathers, siblings and grandparents of young and middle-aged adults with developmental disabilities. In my own case, I am the father of a 31-year-old daughter, Caroline, who is both physically handicapped and intellectually disabled.

Our identity as family members is important, a contrast at least to the testimony I've been hearing over the last hour or so. Because of who we are, we have profound experience with developmental disabilities. Between us, our 150 families have more than 6,000 years of experience dealing with people with developmental disabilities—6,000 years of 24/7 experience. This gives us a special vantage point from which to consider Bill 77, and we have given the bill our close attention.

Our interest is an extension of our serious engagement with the entire transformation-of-services effort. The Honourable Sandra Pupatello, then Minister of Community and Social Services, announced the study and review process that helped to generate Bill 77 at our annual general meeting in 2004. We then participated in the public forums that led to the publication of the ministry's Opportunities and Action document. Indeed, we met several times with previous parliamentary assistant Ernie Parsons as that study was being prepared and met as well with the Honourable Madeleine Meilleur.

What does our personal experience and our organizational engagement lead us to see? We want to emphasize two components of our thinking: on one hand, praise and appreciation; on the other hand, the way in which our positive feelings are being restrained by some concerns and doubts.

Positive feelings deserve initial emphasis. Our families were struggling with the severe shortcomings of Ontario's programs for adults with developmental disabilities before the present government was elected. We know—we really know—how bad the problems were in the 1980s and 1990s. We remember all too well how carefully gathered evidence and clearly reasoned pleas for attention to long-neglected needs were met with callous indifference or empty words. To its great credit, this government has admirably replaced closed doors with open ones and has been gradually convincing many of our members that its heart is genuinely in the right place. Bill 77 suggests the possibility that more recently minted words do not have to simply float away on the wind. We extend our heartfelt thanks for this and say, "Well done—so far."

The "so far" is important. The "so far" in this praise brings us to the concerns and doubts that complicate our appreciation. As we look at Bill 77, our members are quite worried about what we see as elements of vagueness and incompleteness.

We would highlight two examples that are particularly important to us. Barb?

Ms. Barbara Ashcroft: First, we strongly believe, as we've heard presented today, that a milestone piece of

legislation like this should include a preamble that clearly identifies the rights of Ontario citizens with developmental disabilities.

I'm Barb Ashcroft, and I'm a member of the Retired Teachers of Ontario district 39 political action committee. We are supporting OM21. Our organization is advocating on behalf of seniors and aging parents who find themselves in great stress without sufficient support for residential and respite services for their adult children with developmental disabilities. The adult children of these parents are citizens for sure, and no one in this government would deny that. A bill that seeks to initiate more serious action in addressing the problems of this especially vulnerable group of citizens should clearly declare that they are entitled to minimum standards of care and support in key areas.

Through the Education Act, these people have always been entitled to programs and services without prioritization and waiting lists. School boards were expected to provide programs and services, and still are. We wonder why this kind of entitlement no longer exists after 21, when the individual's disability continues. Given the needs and vulnerabilities of this group of Ontario citizens, their right to appropriate housing and continued education supports should be declared.

Without an explicit recognition of rights, Bill 77 would lack an appropriate grounding as well as the standards against which progress can be measured.

Mr. Ronald Pruessen: Our organization's second concern with Bill 77 is the absence of budget information—the absence even of words about more abstract budget targets or a projected trajectory for improvements. Problems that have been profoundly neglected for decades cannot be solved without the provision of significant resources—new resources. Our 150 families know that, as do thousands of other families across the province.

We frankly would have preferred to have Bill 77 accompanied by budget information. If the budget details are going to come later, as seems to be the case, we have no choice but to be patient, as we have been patient for decades. But you need to be aware of the fact that we will be watching carefully to see what substantive life will be breathed into this bill. You have brought us to a moment where we now expect meaningful, real progress on the road you have encouraged us to chart with you—meaningful, real progress in particular on matters like respite and residential supports for the thousands of families who did not institutionalize children 20, 30, and 40 years ago, the thousands of aging families struggling with the strains and health problems produced by decades of exceptional responsibilities.

Ms. Sheila Swinton: I'd like to help you understand why respite and residential supports and funding are important to the caregivers. I am a caregiver. I have a 23-year-old daughter who is mentally challenged, does not speak, is not toilet-trained and needs constant supervision.

In many of our cases, our loved ones are stronger and more energetic than ourselves. Due to the nature of behavioural variances that can and do result in crisis situations, we are often left physically and mentally drained. Also, due to the aging process of ourselves, we have less physical energy to deal with the physical demands required to care for our family members. Often, there is a very despairing and emotional strain as well from being constantly trapped because we cannot leave them unattended. Our every move has to be carefully planned and calculated in advance; for example, to do something as simple as go out to the store briefly, and then we have to pay someone just to do that. Also, due to our aging, there is a concern of who will take care of all these responsibilities when we can no longer do it, and we worry about when we are no longer here at all.

We desperately need the services related to respite and residential support. We already have in place an assessment process regarding this, and direct funding or service funding models are already in place, so we don't need to start over again regarding these areas, but we do need to expand funding so that new respite and residential facilities can be created. These are our main concerns.

Mr. Ronald Pruessen: It is a wonderful thing that you have worked with families and agencies to chart a road forward, but it is an achievement that now carries serious responsibilities with it. Do not imagine that the admiration that has been generated by the transformation effort to date will either linger or quietly fade away if words do not translate into deeds. There will almost surely be a whirlwind of disappointment and anger if the government sees the essentially preparatory provisions of Bill 77 as sufficient or if the government believes that the template or shell conceptualized in this bill will allow the transformation effort to quietly come to rest on a back burner.

Do not imagine, either, that tiny funding increases will allow achievement of a necessarily ambitious vision, especially if minimalist new funding is dedicated primarily to administrative procedures, application centres and the like. If this happens, then the template or the shell that Bill 77 is designed to create will be seen as the setup for a shell game, and "shell game" will be a fair and loudly proclaimed label.

To conclude, we urge the government to continue as it has begun—to continue boldly as it has admirably begun. Take the splendid impulse to transform the services provided to Ontario citizens whose needs and vulnerabilities have been neglected for decades and match fine words with powerful actions.

For our part, we will continue to work and to offer praise, if you also continue. Families like ours are as ready as we have always been to help devise quality programs that are efficient and cost-effective. We are anxious, in fact, to pair community energies and resources with government resources to create services and opportunities that neither of us could create on our own.

Opportunities Mississauga, for example, has designed a transitional respite and residential program that would allow a group of 12 adults with developmental disabilities to receive significantly improved services with the same dollars that would ordinarily support four. We do not, in other words, expect you to do this alone. Indeed, we do not want you to do this alone. But you must be prepared to go beyond words and administrative changes if partnerships are to succeed in solving very serious problems. What a wonderful achievement it would be to solve those problems. What a terrible failure it will be if you do not now move across the threshold on which you are poised. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. About

30 seconds per side. Mr. Prue?

Mr. Michael Prue: That was quite brilliant. You didn't say anything, though, about how some jurisdictions in Europe actually give an allowance to families who keep their loved ones at home. There's nothing in this bill about that either. Has your group given any thought to that as a partial solution, or would it work?

Mr. Ronald Pruessen: I don't think we've given it extended thought. Our primary emphasis has been on developing a range of options, under the respite and residential headings in particular, although we began our work in the devising of day activity programs. A range of options that would take us far beyond what has been, to date, an awful lot of emphasis on supported independent living arrangements, which are admirable for those they are appropriate for, but huge numbers of families—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr.

Prue. To the government side. Mr. Delaney?

Mr. Bob Delaney: Thank you very much. Certainly, as a Mississauga member, I especially welcome you. I looked at your address; you're down in the Clarkson area, I think. Representing Meadowvale, Streetsville and Lisgar, I guess that explains why I haven't visited you.

Mr. Ronald Pruessen: Well, it would be a post office box you'd be visiting, anyways. But you're welcome to

do so.

Mr. Bob Delaney: I guess you're aware that much of the funding decisions are made each year in the budget and that the government's 2007 budget committed an additional \$200 million over four years to the developmental services system. What's the relationship that you have with the staff in our area and—

The Chair (Mr. Shafiq Qaadri): Mr. Delaney, I'm sorry, the question will have to remain rhetorical for now. I'll change to Mrs. Elliott.

Mrs. Christine Elliott: I would like to thank you for your tremendous presentation, because the value of the family and caregivers' viewpoint is critical here. I certainly agree with you that what we have here is a piece of legislation with tremendous possibilities, but right now, there are large parts of it that are yet to be completed. That's part of our responsibility over on this side of the committee room, and I want you to know that we do take that very seriously. We do understand that the need is not only to make a life for your adult children, but also to know that you, as caregivers, are going to have your needs met; that after all of the years you've put in, you know your loved ones are going to be cared for. Maybe no one will ever care for them to the same degree

you do, as parents, but we recognize the responsibility to ensure that your children are cared for and given their appropriate place in our society, which is the same as everybody else.

The Chair (Mr. Shafiq Qaadri): Thanks, Opportunities Mississauga for 21 Plus, for your very well-received presentation.

FAMILIES FOR A SECURE FUTURE

The Chair (Mr. Shafiq Qaadri): I'd now invite, on behalf of the committee, our next presenter, Judith McGill, who's the executive director of Families for a Secure Future. Welcome, Ms. McGill. As you've seen, you have 15 minutes, start to finish. We invite you to begin now.

Ms. Judith McGill: I'd like to begin by thanking the Liberal government for all their work on developing the bill so far and all of you for your commitment to people with developmental disabilities in this province and your willingness to make this bill the best it can be, through extensive consultation.

My name is Judith McGill. I'm the executive director of Families for a Secure Future, which is a family-governed provincial organization that offers facilitation support to individuals with a developmental disability and their families. We're dedicated to ensuring that individuals have the support they need to take the next step in their lives, whatever that may mean.

We assist individuals and their families to re-imagine what's possible and how they might become full contributing citizens in their local communities. We take our direction, as facilitators, as much as possible from the individuals we support. We assist them in building their support network so they can make decisions in a supportive context. We support families to come together to learn and grow in family groups.

As a facilitator for over 15 years, I've personally supported many individuals and their families to manage their direct funding as well as helped individuals navigate the service system in order to get their needs met. Families are quite capable of doing the work of direct funding and have been for over 25 years.

I'm also speaking here today as a member of the coordinating team of the Individualized Funding Coalition for Ontario. The coalition represents several groups from across the sector. We're committed to self-determination of persons with disabilities. We believe all people should live with dignity and have control over their decisions concerning where they live, with whom they live, with whom they associate, and how they spend their lives. To this end, we believe it's imperative to build a funding system in Ontario whereby the person requiring assistance, supported as appropriate by family and/or significant others, has access to and control over the funds allocated for his or her supports.

This is, as you know, one of the key features of Bill 77, referred to as "direct funding." The Liberal government must be highly praised for finally establishing

direct funding as a bona fide choice for individuals with developmental disabilities and their families.

As a coalition, we have, over the past 10 years, played a pivotal role in informing the dialogue and providing research in this area, and we expect to do so in the future as it rolls out.

Finally, today I will speak primarily on behalf of the provincial ad hoc working group on Bill 77 that was pulled together in June and July to consider the impact this bill will have on individuals and their families. You each should have a copy—I guess it's being handed out now—with a full analysis of our recommendations and a summary of them.

As you've heard already today, there's a great deal of convergence between speakers, and I will deal with only a few of the recommendations in the report. Let me begin.

Once this bill is passed, we believe it's imperative that the government have an open and transparent consultation in regard to what will be the most significant aspect, and that is the regulations. We hope and suggest that that should involve families as much as possible. Families are ready and willing to consult.

Transformation is about much more than services; it's about supports for building a meaningful life where people can contribute and have relationships and have the support to build their personal networks.

We believe it's critical for Bill 77 to consider a preamble that establishes the philosophical rationales for making the momentous changes that are being proposed and that clarifies the inherent legal rights of people with disabilities. A clearly stated articulation of the intent of Bill 77 will assist policy-makers into the future and will be the basis of giving clarity for all legal interpretations as we go forward.

Faced now with a wonderful opportunity to align ourselves with the UN declaration on the rights of persons with disabilities, we implore the government to consider finding ways to align this legislation with that international law. To that end, in our brief we have a number of ways to align it with the UN declaration as well as their stated transformation principles.

For direct funding—which we see as a pivotal piece and probably the most transformative part of the bill—to be a bona fide option, we suggest there are three main things that need to be addressed and addressed well: one, there must be a recognition of legal capacity; secondly, there must be accessibility and portability across the board; and thirdly, there must be a recognition of and provision for independent facilitation supports to be provided. I'll go through those three things that make this a bona fide option.

Firstly—and this will be dealt with more thoroughly by my colleague Orville Endicott of Community Living Ontario, who's next—it's an important aspect of any direct funding model that individuals be recognized as being able to direct their lives and the decisions that have great import in their lives. The UN declaration recognizes

the right of individuals to make decisions. We would like you to consider that in many jurisdictions in Canada and internationally, decisions are being made with high efficacy. The individuals are making decisions in supported decision-making contexts. You heard reference earlier to those contexts being personal support networks. Families for a Secure Future works in that way, as do many other family-governed organizations' facilitation models, where people make important decisions alongside of loved ones and those who have a continuity picture of their lives.

Accessibility and portability: It's been mentioned before, but the legislation doesn't actually embed that as a right. We believe it's fundamental to clearly state that anybody receiving a direct funding allocation has a right to have these dollars available to them if they choose to use it in any other way and with any other organization, or, in fact, if they move to another organization.

Thirdly, independent facilitation support: As you've heard this morning, there is no mention yet in Bill 77 of the need to offer independent facilitation and planning support to both individuals and their families. This kind of support is of benefit to both individuals and their families as they move forward, as they plan. And mostly, in this legislation, for direct funding to be a bona fide option, it will help if it's provided as an option. Once somebody is deemed eligible, it will actually be a prudent course, in that it will allow people to make a decision between the funding options and service options available.

Intentional provision of these supports enhances accountability, but it's critical for people not to be put on hold. People have mentioned the waiting lists. Providing independent facilitation support as a way of people beginning to build and unfold what it is they're meant to do and need to do in terms of what they experience and what their impairment dictates—all of those supports can be provided through a relationship with facilitators that can help map out the next step, with the family and the individual directing that process.

Facilitation services must be included in the bill, under professional services. We agree with CUPE, who spoke this morning, that there needs to be a guaranteed level of both support and services, and we perceive that to be a minimal support, being that of providing facilitation for guiding and mapping out the next step.

The provincial ad hoc working group on Bill 77 takes the position that provincial legislators must reconsider the prioritization mechanisms provided for in this bill. People's essential needs must simply not be addressed through waiting lists that are prioritized in terms of most-in-need criteria. Application centres are premised on the need for waiting lists, and Bill 77 sets out to legitimize waiting lists. It assumes that there will never be adequate funding to support individuals with developmental disabilities in this province and that some will not ever get the basic support that they need. This basic presumption must be challenged. If there is to be true equity and fairness in the sector, there must not be a focus solely on

those defined as most in need. Giving priority ranking to those considered most in need without adequately responding to a majority of others' needs is an issue of fundamental rights. As well, the use of waiting lists to deal with people's most essential needs has a discriminatory effect across the board.

We ask that ongoing independent facilitation and planning support be offered as a basic right to each and every individual with a developmental disability once they're deemed eligible. By offering this as a minimal provision of support once they're deemed eligible, the ministry will ensure that individuals are not severely disadvantaged as they wait for access to direct funding or supports.

We'd like to say something about application centres. Fundamentally, they must not be involved in direct service provision of any kind. The provincial ad hoc working group strongly cautions the ministry against setting out the specific functions of the application centres in legislation. It's far more appropriate to lay these out in regulations so that the changes can be made as the model develops over time and safeguards are implemented.

Allocations, as Michael Bach from CACL said, must remain with the government. We've laid out in our report that you'll be able to read a number of serious conflicts of interest that we perceive hold up the initial conceptualization, as it's stated in the bill, as far as application centres go.

We understand that the government undertook the application centres as a form of one-stop shopping to respond to families that asked for a simplification of this complex web of supports and services. We understand that, and yet, with the conflicts inherent in a service that has no separation of functions, we believe that there needs to be careful consideration of where the conflicts exist and working through those as the model evolves.

Finally, application centres: There's nothing in the bill that tells us how they'll be governed, how families and self-advocates might have impacts or guide the development of them in each of the regions.

We would also like to say, finally, two things about resource commitment; that is, how will any of this happen in a way that's adequate at all if there's no commitment in terms of budgetary moving forward, a sense that the unequal access direct funding in the past compared to agency doesn't just continue to evolve and continue? For direct funding to be a bona fide option, we have to address the severe wage disparity in this sector, where community contractors working with individuals are paid much less than agency sector staff, and we are in jeopardy of creating an under class of community workers who are paid 30% to 40% less than their agency peers. That needs to be addressed and it can only be addressed by putting money into the direct funding options.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. McGill. We have about 30 seconds per side. For the government, Dr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. It was a well-thought-out presentation. I

assure you we're going to take it under consideration and hopefully, after we've finished with the consultation across Ontario, you're going to find a good bill to serve the needs of the people of Ontario. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Ramal. To Ms. Jones.

Ms. Sylvia Jones: Thank you, Ms. McGill. I wanted to touch on the planning and facilitation support because it's come up in a number of the previous presentations already. How long has that model been in existence in Ontario?

Ms. Judith McGill: I've been an independent facilitator now for 15 years and the Windsor model has been around now for just over 10. The significance is unencumbered, where we're not part of service models that may direct you in any way that matches with their priorities.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: In your deputation, you seem to want to circumscribe the powers or authorities of the application centres. Other deputants have talked in terms of having them keep statistics and other minor things. Is that the role you see for them?

Ms. Judith McGill: Data management is one of the functions and we don't have any problem with that. We agree with the dual diagnosis presentation this morning in that we need to ensure privacy of information and abide by that act. I think what I tried to say is that the application centres shouldn't be too prescribed in the legislation, that that should be worked out in the—

The Chair (Mr. Shafiq Qaadri): With respect, I will have to intervene there. I thank you, Ms. McGill, for your contribution on behalf of Families for a Secure Future.

COMMUNITY LIVING ONTARIO

The Chair (Mr. Shafiq Qaadri): I would now like to invite, on behalf of Community Living Ontario, Dianne Garrels-Munro, president; Keith Powell, executive director; and Orville Endicott, legal counsel. As you've seen the protocol, you have 15 minutes in which to make your presentation, and please begin now.

Ms. Dianne Garrels-Munro: Thank you. Good afternoon. My name is Dianne Garrels-Munro and I am president of Community Living Ontario. With me today are Keith Powell, executive director of our association, and Orville Endicott, our legal counsel.

Community Living Ontario, with more than 12,000 members in 117 local associations across the province, is part of a national and international movement advocating for the citizenship rights of people who have an intellectual disability. Thank you for this opportunity to provide our thoughts on this important legislation that will replace the decades-old Developmental Services Act.

One of Bill 77's most important features is that it removes the legislative authority of the government to operate institutions. This provides the opportunity we have long been waiting for: for Ontario to take the next

step in creating truly inclusive societies. We applaud the government for adding provisions in the bill to allow for direct funding to those individuals and families who choose it. These significant changes signal a new era with respect to how our society perceives and supports people who have an intellectual disability. It will be an era in which persons who have intellectual disabilities are recognized as fellow citizens deserving of every opportunity for self-determination, inclusion and participation in Ontario society.

Community Living Ontario has developed 19 recommendations related to the proposed legislation. Our recommendations are provided in detail in our written brief and appendix, which we thank your clerk's office for making available to you today. Our limited time with you means that we can only provide a brief overview of the recommendations that we regard as being of particular importance.

We would first like to consider the title of the legislation, which speaks only to services, thereby setting a tone that is too reflective of our history rather than our future. Services do now and will continue to play a critical, important and positive role in providing support to many people who have an intellectual disability. However, the key aim of the transformation of Ontario's system of supports must be to continue the shift toward connecting people to the community while reducing the reliance on special segregated places and programs created for those with disabilities. Services and funding should be seen as important tools to support inclusion, but the end goal is life in the community. Recognizing that the title of the legislation plays an important role in setting the tone and intent of the legislation, we recommend the title of the act be changed to "An Act to enhance the social inclusion of persons who have an intellectual disability."

Further, the legislation would benefit from the addition of a preamble aimed at describing the social change that is intended by the legislation. Many of Ontario's statutes now include such a preamble. By clarifying that the legislation is meant to provide the supports that will enable people to have access to all areas of community life, we can more clearly understand the role that such supports must play in connecting people to life in the community, not placement in special services.

A central theme that ties together all of our recommendations with respect to Bill 77 is an idea that people who have an intellectual disability are capable of exercising control over their own lives when they are afforded the necessary supports. This is consistent with the principles enshrined in the United Nations Convention on the Rights of Persons with Disabilities, which came into effect May 3, 2008. Up to the end of July, 32 countries had ratified the convention. While it has not yet been ratified by Canada, we see this bill, if appropriately amended, as an important contribution by Ontario toward attaining the necessary national consensus to secure such ratification.

Article 12 of the UN convention says in part that "States Parties shall recognize that persons with dis-

abilities enjoy legal capacity on an equal basis with others in all aspects of life" and receive "the support they may require in exercising their legal capacity."

In accordance with this internationally recognized standard, it is recommended that Bill 77 include provisions to recognize the legal capacity of people who have an intellectual disability and to provide for supported decision-making in order to ensure that people can exercise their freedom of choice.

To ensure that people are afforded all the information they need to have control over decisions that affect their lives, we recommend that person-directed planning be added as a funded service that is available to all deemed eligible for support under this legislation. Such planning should be made available before a person completes or receives an application for services or funding. Such a provision could be truly transformative, as it sets an expectation that people will plan for life in the community, rather than in services, and that they will give due consideration to the support that is available to them from the community and their family before considering what support might be needed through government funding.

Much of Bill 77 pertains to the establishment of application centres through which people can access the supports and services they require. The application centres are intended to carry out a broad range of functions related to determining eligibility, applications, assessment of need, allocation of funding, placement in services, data collection, complaints review and measurement of outcomes. If all of these elements are to be delivered by a single body, a number of serious conflicts would occur.

The most serious of these conflicts would be that the body responsible for determining allocations to address individual needs would be the same body that would determine in the first place what those needs are. Such a structure, in light of the limited funding available in this sector, risks seriously distorting and under-reporting the needs of people seeking support.

In order to address potential conflicts in the application processes and to build on effective processes currently being used, the legislation should make clear the various elements that might be delivered by different bodies within a given region. This approach would build on existing mechanisms that are connected in such a way as to ensure easy access for people applying for the support while eliminating any potential for conflicts. To this end, the legislation should refer to an application process, rather than application centres. The responsibility for allocation of funding should remain a direct responsibility of the government.

The provisions in Bill 77 to legislate waiting lists are quite alarming, especially when considered in conjunction with the provisions for creating application centres that would shift many government responsibilities to an arm's-length third party. Taken together, these provisions appear to suggest that the government expects to systematically underfund the sector. We

recommend that the provisions in this act related to waiting lists be struck from the legislation and instead that the legislation be focused on strategies by which people can have their support needs met through realistic, person-centred planning and funding that is consistent with such plans.

Bill 77 contains little in the way of safeguards for people receiving supports and services, and we will now address a number of safeguards that we feel should be included.

1500

We would first look at the provisions that are needed to protect people against having the peace and security of their homes violated, as occurred during the strikes by social service agency workers that took place in various communities in the summer of 2007. It is simply intolerable that picketing should be permitted to inflict lasting harm on people who are not parties to labour disputes, as was the case during those strikes.

Community Living Ontario recommends that the developmental services be identified as a no-strike sector and that the provisions be established in legislation to create an arbitrated settlement mechanism to address future labour disputes such as those found in the Hospital Labour Disputes Arbitration Act.

Measures must be in place to ensure that individuals and families who choose the direct funding option are able to purchase quality support in the community. Such measures must include provisions that workers available for hire through direct funding will be paid a reasonable wage comparable to that of workers in service agencies. To ensure quality in the support provided by these workers, adequate training must be made available to all workers in the sector.

An individual's direct funding agreement should never be cancelled for reasons of misuse where direct funding was being managed by someone other than the individual, and where the individual is found to have not played a role in the misuse.

Furthermore, the act should clarify that a process be in place through which a person for whom direct funding has been involuntarily terminated can have the funding reinstated after meeting specified requirements.

We also believe that Bill 77 ought to include mechanisms that will help ensure that people with disabilities are not at risk of abuse and neglect by those who are trusted to provide care and support.

Persons who have been receiving support in the past have suffered terribly when these supports have subsequently been declined by caregivers. The tragic fate of Tiffany Pinckney, who was systematically starved to death by her sister after support services were rejected by the same sister, demands the creation of new safeguards. We recommend that Bill 77 be amended to mandate access to an individual when supports are declined, or on behalf of that person, in order to ensure that there is appropriate follow-up and oversight.

You will also see in our written submissions a cluster of recommendations that, if adopted, would authorize the

Ministry of Community and Social Services to make investments in strengthening the support services system in addition to funding supports to individuals. We have characterized these recommended investments under the heading "Community Development Initiatives," and they would include such things as promoting innovation and training, development of direct funding administration models and the encouragement of advocacy groups and networks.

Finally, recognizing that an inordinate number of issues related to Bill 77 are being left to be dealt with through regulations and policy directives, we ask that your committee make clear its expectations that the public will be fully consulted on the development of the regulatory framework for the legislation before the government completes the process of drafting and adopting regulations and policy directives. Such an expectation should be written into the act.

We applaud the government for its work on transformation and providing this opportunity for consideration of a new legislative framework. We offer all the support we can provide in ensuring that the implications of this legislation are fully considered. We encourage you to review our written brief, which outlines the specific actions that we feel must be taken with respect to each of the recommendations.

Thank you for your attention to our suggestions. We would now welcome any questions you may have.

The Chair (Mr. Shafiq Qaadri): Thank you. We have about a minute per side. Ms. Jones.

Ms. Sylvia Jones: I am curious because the application centres and the questions surrounding them is a recurring theme. You mention that there are too many roles for the application centres. Would you give your advice to the committee as to which things you would like to see removed from the application centre?

Ms. Dianne Garrels-Munro: I'm not sure that we want anything actually removed; we just don't want it being one body that is covering it. You need two or three—

Ms. Sylvia Jones: So as an example, would the appeal process be one aspect that should not be part of the application centre? Or do you have—

Ms. Dianne Garrels-Munro: I'm going to turn it over to Keith Powell.

Mr. Keith Powell: One of the things that we need to recognize is that currently, and as would be the case if the application centres were created as proposed, the government has a responsibility to be both a steward of the public dollar and a steward of the public good. We've identified that, as proposed, an application centre would be in conflict around those two responsibilities. Therefore, the decisions that relate to planning and identification of needs are better done by the community and the experts. The government should not put itself in a conflict position—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Mr. Prue?

Mr. Michael Prue: I think you're answering that

quite well. Keep going.

Mr. Keith Powell: So the issue here is to come up with a model that ensures that the 30 or 40 years of wisdom about how to support individuals who have intellectual disabilities—wisdom that's in agencies, in the ministry and in families—can apply itself to the process of attaching public dollars and voluntary support to individuals. Government has to avoid creating a body, or itself being in conflict over how much money is necessary from the public purse, to ensure that in addition to natural supports, there's adequate support for an individual, as identified in their plan.

Mr. Michael Prue: Thank you very much.

Mr. Khalil Ramal: Thank you very much for your presentation, Dianne. You mentioned there shouldn't be an application centre, but there should be an application process. In your mind, what's the difference between a centre and a process?

Ms. Dianne Garrels-Munro: I'm going to turn to my

colleague, Orville.

Mr. Orville Endicott: I'm not sure that I'm the best person to deal with this. As quickly as I can, I think, as Keith said, we want to make sure that existing processes are not swept away and replaced by something that inevitably is bureaucratic. If it's given all of the authority that Bill 77 now gives it, it's going to be conflicted.

Mr. Khalil Ramal: We heard, too, many people this morning before this committee mention that it should be an independent application centre, not tied to organizational agencies, to make sure transparency and accountability are in place. What do you think about this?

Mr. Keith Powell: I think it gets back to the point I made a few moments ago. It is critical that the support that's available to a person and the plan for their life that comes into place is one developed by the community and families—

The Chair (Mr. Shafiq Qaadri): With respect, I will have to intervene there. I would like to thank, first of all, Dr. Ramal, but also, for your representation on behalf of Community Living Ontario, Ms. Garrels-Munro, Mr. Powell and Mr. Endicott.

PEOPLE FIRST OF ONTARIO

The Chair (Mr. Shafiq Qaadri): We will now move to our next presenters, who are Barbara Fowke, president, and Kory Earle, member, of People First of Ontario.

Interjection.

The Chair (Mr. Shafiq Qaadri): Sure, we'll have that distributed for you.

Welcome, and please be seated. I'd invite you to begin. As you've seen, you have 15 minutes in which to make your combined presentation. Please begin.

Ms. Barbara Fowke: Hello. My name is Barb Fowke and I am the president of People First of Ontario. I am here with Kory Earle of our board to talk about People First's concerns.

First, I would like to talk about who we are and why you need to hear from us. People First of Ontario is a

province-wide organization made up of, and run by, people who have been labelled with a developmental disability. We want all people to be treated equal. We want others to see us as people first, not disabled people. We want to be included in all areas in the community, not excluded in schools, institutions or in our social activities. We want to have the support that we need to be fully included in the Ontario communities that we live in.

We are pleased that the government of Ontario recognizes that changes have to be made in order to give people who are labelled more choice and control over their lives. Although we realize that the current act, the Developmental Services Act, is 35 years old and outdated, we know that once this new act is in place, it too will be around for a long time. This new act will affect us more than anybody else on a day-to-day basis.

This is why we need to say our concerns at this important point and demand that they be heard. This is also why we were so surprised, disappointed, and some of us were even sad, when we heard that People First of Ontario was not selected to make an in-person presentation. The government people who decided who would participate in the conference call made us feel that we were less important than service agencies, when we know we are the most important group to hear from. It also shows us that you do not understand much about who we are. People labelled with a developmental disability have problems communicating in a conference call. In person is the best way we can meet and talk about our needs.

Now Kory is going to talk about some of our problems with the act.

1510

Mr. Kory Earle: Thank you. Here are the things that we are concerned about.

Concerns around inspections: We are worried that inspectors will be able to go into people's homes without any notice. We understand that if someone is being hurt or abused, this is a good thing, but what the government has to realize is that our homes are private and personal spaces, just like your homes are. If the government inspectors can come into a person's home unannounced and look at paperwork, at belongings, and ask questions, this goes against our human rights. This is no different than when striking workers picketed in front of people's homes last summer in Ontario.

A government officer is not able to just walk into a non-disabled person's home without legal documents, so why can they do this in our homes? We think that an inspector needs to have a legal document, like a warrant, that explains that they have a good reason to come in before entering our homes.

Concerns around definitions: We are concerned about some of the definitions in the proposed new act. For example, what does the act mean by "family"? We have to remember that many people with developmental disabilities do not have families. Our concern is if we do not have a family member to help us set up our funding and supports, who will help us? The act cannot forget people who do not have families.

Also, the new definition of developmental disability is very medical. The new intensity scale is also very medical. It worries us that the amount of supports and funding you might get is based on your level of need—and people who will be getting trained across the province on how to deliver this test. We fear that we may go back into the Ministry of Health as sick people instead of people who need supports to live in their communities.

We want to make better lives for ourselves, just like you. Our dreams are not just based on our level of disability. Our dreams and needs are bigger. We want to work in stores, go to college, be poets and actors, have real friends, volunteer and take dancing lessons. These are the kinds of things we need support for from the whole community. We want to be seen as individuals, with individual needs for supports to make our dreams come true.

There is not enough on supporting people to live in the community. If we are seen as individuals, there will be more community-level planning. There is nothing much in this new act that talks about planning for our lives in the community. For example, do we have to be in a group home to receive services or supports? We want to be supported in the community with people of our own choice and supported to make our own decisions.

The new act spends a lot of time talking about agencies and services. For example, the act talks about waiting lists for services. We would rather it talked about having our support needs met through ideas such as person-directed planning or supported decision-making. The ministry talks about citizenship, but unless this act helps us plan towards life in the community just like everyone else, how can we be true citizens?

Concerns around the application centre process: We have many concerns with the idea of the application centres. The application centres decide who is eligible or whether you have a developmental disability and whether or not you sit on a waiting list, etc. What happens to the people who need the supports but are not seen as a priority by the application centres?

Transportation to one access application centre in large regions is also a big concern. Because a person's eligibility is determined by these application centres, they must be accessible to everybody. In rural and northern communities, this is difficult.

It seems like the application centres have a lot of rules and authority and can therefore put us in a vulnerable situation. We agree with Community Living Ontario: The act should talk about the application process, not centres.

Now I'll pass it back to Barbara.

Ms. Barbara Fowke: Threat to our rights: There is nothing in the act that talks about what people are entitled to or have a right to. Again, we can't talk about citizenship unless we talk about rights. We worry about our rights as citizens, for example, when the act talks about personal information. The ministry has the right to collect information for anyone applying for supports and funding. This means that our personal information is in a computer. Where that information will go and where it can end up is not clear to us.

Threat to people having a voice and being independent: One of the most important things People First does is assist people who are labelled to have a voice and be heard. We need to be supported, however, in order to have a strong voice. We should have an adviser to read through anything before we sign it. An adviser is someone we trust and feel comfortable with. An adviser does not make decisions for us. We need an adviser in order to help us get supports.

Direct funding is something we think is very good, but without support to understand agreements, we can be very vulnerable once again. We are very vulnerable in signing agreements we don't understand and hiring the

wrong people.

We had hoped that the government changes would give people who are labelled with a developmental disability a greater voice and more power and control over their lives. But it seems that through this act people have little control, agencies have more control, and the application centre and government will have tons of power, control and authority. We are very worried about this.

The government really needs to remember we are the ones directly affected by the proposed changes to this act. At the end of the day, government people and agency staff go home to a life that they have tried to make good. We go home to what we have been able to get. The more this act and the government of Ontario begin to see us as individuals who want to live in the community with proper supports, the better that home and life will be.

Thank you for letting our voice be heard.

The Chair (Mr. Shafiq Qaadri): Thank you very much to you both. We'll start with the NDP—about a minute and a half per side. Mr. Prue.

Mr. Michael Prue: You two are concerned about the application centres. Can you tell us what you want to see instead of those application centres?

Ms. Barbara Fowke: I'm not sure.

Mr. Kory Earle: The only thing we can really do is go back to the board of Ontario, which is coming up, and ask them what suggestions we would like to make—

Ms. Barbara Fowke: That's the only thing.

Mr. Kory Earle: —to the government, because at the end of the day, this will affect People First more than any agencies out there.

Ms. Barbara Fowke: We can certainly talk about that on our board.

Mr. Michael Prue: The two of you are obviously very successful living in the community, I can tell.

You didn't say anything about this, but another group did earlier, and I didn't have a chance to ask them the question. They were very troubled that the government claws back money from people who work in the community and thought that it was forcing people to live in poverty. Does People First have that same opinion, that the government shouldn't be clawing back the extra money that you earn?

Ms. Barbara Fowke: My personal opinion is that people from People First do get worried about something like that. I'm not sure, but I think People First does get worried about that.

The Chair (Mr. Shafiq Qaadri): With respect, I'll now turn it to the government side. Dr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. I want to echo my friend Mr. Prue: You're doing well to address your issues. You raised some concerns about someone entering your house to inspect it without any warrant. I think the bill was clear about it. If you live in your own home and not a business centre, you wouldn't be subject to this section of the bill.

1520

Secondly, you seem worried about the application centre and you referenced Community Living Ontario, which wants to distinguish between an application centre and an application process. Mr. Prue asked that question here, what's the difference between an application centre and the process. But since you are receiving the service, why do you have to worry about those application centres? You're already eligible for the service and support. So can you explain to me why you raised this issue?

Mr. Kory Earle: The reason why the issue is raised is because you have to remember that there are a lot of people involved at People First who may not have the proper supports that they require. You have to remember that they also go through the application process. They still have to go—

The Chair (Mr. Shafiq Qaadri): With apologies again, I'll need to intervene. To the Conservative side, Ms. Jones.

Ms. Sylvia Jones: Thank you. I'm glad we were able to fit you in today. You both mentioned the need for planning and the need for advisers, particularly when you're dealing with direct funding. Do you currently use an adviser?

Ms. Barbara Fowke: In People First, we do. Most people do because people like me or other people don't understand plain language and so they need people to explain things to others in plain language about what's happening, otherwise people like me would get very lost. Plain language is very important.

Ms. Sylvia Jones: So it's worked for you.

Ms. Barbara Fowke: But we do need advisers to help us work things through, like these things, like the papers.

Ms. Sylvia Jones: Thank you.

Mr. Kory Earle: It's very important.

Ms. Barbara Fowke: Yes.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones, and thank you to you, Ms. Fowke and Mr. Earle on behalf of People First of Ontario. Thank you for your deputation, written materials and for coming forward.

A CIRCLE OF SUPPORT

OAKDALE CHILD AND FAMILY SERVICE

The Chair (Mr. Shafiq Qaadri): I'd now invite our final presenters of today, Andrea Rifkin, member of the Ontario Association for Residences Treating Youth, and representing A Circle of Support; Oakdale Child and Family Services and colleague. I invite you to please be

seated. And as you've seen, you have 15 minutes in which to make your combined presentation. If you might just introduce yourselves individually, please begin.

Ms. Andrea Rifkin: Thank you. I'm Andrea Rifkin from A Circle of Support and beside me is Lisa Bache from Oakdale Child and Family Services. Together, our agencies serve a total of 100 young people with disabilities, all of whom would fit a description of complex care needs. These special folks come into our care as children and generally remain with us as adults, largely because they are so very much a part of our family group and because without an appropriate alternative as they become adults, they remain in our care.

Thank you for this opportunity and privilege to participate and to be here to speak for those who cannot speak for themselves in this debate.

It is my pleasure to comment on Bill 77, the Services for Persons with Developmental Disabilities Act. The introduction of Bill 77 builds on the government's commitment to making Ontario inclusive for people with disabilities and, as such, we support the sensibility of the bill. After all, both Lisa and I have promoted this notion of inclusion with our young people in the community for over two decades.

We are aware of many of the concerns presented so far, and that will be entertained in the process later, and we want today to highlight some of the concerns that we have not seen expressed to date.

Empirically supported, 38% of individuals with a developmental disability have a dual diagnosis. All individuals in the disability services sector are challenging to manage and require compassionate and sophisticated care. People with dual diagnoses have complex care needs that require services across sectors including, but not limited to, developmental, health and mental health services.

Here are some concerns with Bill 77 which we would like to share with you today.

(1) In this bill, application centres are tasked with managing the client's case, assessing the condition, determining funding, as well as providing services to the individual. In effect, it's operating as a multi-service centre. Currently, Prescott-Russell is a pilot project for the amalgamation of child welfare and protection and developmental services under this similar umbrella system of care for children. Similar systems are being implemented in Lennox and Addington and Niagara Falls. Giving one group or organization the ability to be responsible for the assessment, treatment, funding and accountability is not the best model for the person in care. The proposed model replicates exactly what is flawed in the child welfare system, with the relationship of children's aid societies and the private sector caregivers. Our recommendation, therefore, would be that assessment, funding allotment and service provision should be separated. This would allow for the accountability to be judged or determined by an independent third party. The resources would be funded directly through community and social services or a third party agency, like a community network service. An example of the direct

funding model could be that a case management agency would hold the case, a service agency would hold the care of the individual, and a third party agency would monitor the resources, standards, accountability and outcomes of all cases.

- (2) Many important details of Bill 77 and how it will operate on the ground are unknown at this time and will have to be specified in regulation and/or policy. One of the enormously significant details concerns the qualifications of the persons who would conduct the assessments and the methods and criteria that they would employ. Assessment methods are of immense concern to our families and to the professionals and paraprofessionals who provide service to individuals with developmental disabilities. Our recommendation is to establish a clear set of criteria and specifications for what the qualifications would be for the professionals who would be providing the assessments. We believe these employment criteria should be set centrally and not vary substantially across the province. We do understand, though, that there would be some cultural considerations that may be reflected in the composition of the staff.
- (3) Regarding sections 26 to 28, which allow for inspections of the premises of the service agencies, our comment and concern is that the current practice that we see is not ideal. Our recommendation would be to implement a uniform skill set across the province for inspectors and a uniform code of conduct, to be set centrally.
- (4) Accreditation standards were not detailed in Bill 77. However, accreditation is necessary as a quality control mechanism. Our recommendation is that we insist that service providers be accredited and ensure that accreditation is carried out by a distinct third party group—CARF would be an example of one of these groups—rather than a peer review system which leaves the system open to misuse and abuse.
- (5) Section 22 notes, "A service agency shall comply with any prescribed requirements with respect to the operation of the agency, including any requirements relating to the composition of its board of directors..." The director may appoint inspectors who are able to set standards for service providers and their boards of directors. The inherent problem here, from my perspective, is that there are a significant number of private sector providers who offer much-needed services, and I will say truly exemplary services, but do not have a board of directors. Therefore, these operators are excluded from participating in the developmental services framework as conceived of in Bill 77. We would like to think that this was not the intent of the bill, to exclude such valuable resources. Therefore, our recommendation would be that consideration is given to service providers of all sizes for the efficacy of the legislation.

I think that's a nice segue to some further comments from my colleague, Lisa Bache. I'm hopeful that we've allowed for some time for questions you may have of us. 1530

Ms. Lisa Bache: My name is Lisa Bache. I wish to take this opportunity to speak as a service provider for

the most vulnerable persons and also speak on behalf of my colleagues.

I am the administrator and founder of Oakdale Child and Family Service—since 1973. We are a private children's residential service with facilities in Toronto, Stouffville and Barrie. In 1976, we established the first residential service for children with autism in Toronto as an independent operator. Our children and adults are developmentally challenged and/or have autism. They need structure, life skills training and community integration.

When they became adults, there were few adult settings to be transferred to, and therefore we had to develop adult programming within our facilities. Ageappropriate residences were established to separate the adults from the children's programming. Throughout the years, my colleagues and I have expressed a desire to be part of the adult system. We hope and trust that Bill 77 will provide the private residential services with this opportunity. For over 20 years we have provided guidance, work experience outside of the residences and other important adult programming. Some care providers have created their own day programs geared for special needs.

As the government creates more adult homes and our former children are moving out, it is important to concentrate on those clients where a departure from the residence is devastating—adults who have, throughout the years, formed relationships with caring, professional staff, found security and happiness. They cannot understand why they have to leave. It applies especially to clients who have no family and call their residence their home. The familiarity of the environment, staff attachment as family and acceptance in the neighbourhood throughout the years should not be threatened due to repatriation.

They cannot speak for themselves and depend very much on all of us to make the right decision for their future and well-being. Some clients came to us as very young children and have no families. Now they are over 30 years old and our setting is the only family they know. We were asked to continue to serve the over-18-year-old population due to the mentioned lack of adult facilities. We have responded and created adult housing and programming. Our staff are dedicated, committed and long-time employees with professional backgrounds.

I am, therefore, appealing to the government to make provisions in Bill 77 to allow the residential service providers to continue caring for these adults who would be devastated and heartbroken by a move. Just before I came here, I heard that two of our adults, who came to us as little children and have been with us for 25 years now, are being considered to move out. My heart just aches for them, so I'm here to say please, we have to be compassionate and caring for those people.

Oakdale is a founding member of OARTY, which stands for Ontario Association for Residences Treating Youth. OARTY is well known by the Ministry of Community and Social Services and has a good working relationship with all government agencies.

I trust that my demonstrations will have a positive outcome and thank you for allowing me to speak on behalf of those people who are dependent on us to make the right decision for their well-being. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. We have less than a minute per side. To the government. Dr.

Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. Many people spoke about the application centres. It seems to me everyone has a different approach to them. Hopefully, when we collect all these approaches, we'll come up with a fine one to please the majority of the people. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll

move to the Conservative side. Ms. Elliott.

Mrs. Christine Elliott: I'd like to thank you very much for your presentation. Clearly, you have many years of experience in dealing with special-needs adults, and I think some of the points you've made are very well taken, especially with respect to the separation of the assessment, the service, the allotment of funding and the service provision. We have heard about that, as you may know, from many presenters this afternoon. I think it's a point very well taken. We'll certainly take it into consideration in our deliberations.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott. Mr. Prue.

Mr. Michael Prue: I just want to fully understand the statement you made about people being forced out of their residences.

Ms. Lisa Bache: Yes.

Mr. Michael Prue: Can you explain in one minute what that really means? What's happening to them?

Ms. Lisa Bache: Well, as a children's residence, we are not usually permitted to serve adults, but due to the lack of adult facilities, we were asked to continue servicing these adults. Now that the government has made available more funding to create adult homes, they are being moved out, and it's like tearing them away from a family. This is what the situation is right now.

Mr. Michael Prue: So they've turned 18, and they're being forced to move on?

Ms. Lisa Bache: Yes, and the only reason we have so many adults now is because before there was a lack of adult services in the government. Now there has been money made available, and they are to move out. This is very heartbreaking for many of our clients.

Mr. Michael Prue: I can understand. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue, and thanks to you, Ms. Bache and Ms. Rifkin, for your presentation on behalf of A Circle of Support and the Oakdale Child and Family Service.

If there's no further business before the committee, I'd just remind you that your transportation will be leaving from the main entrance of Queen's Park at 4:30 p.m. today.

This committee stands adjourned till the London, Ontario, reconvening.

The committee adjourned at 1537.



STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke–Lakeshore L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)
Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Jim Brownell (Stormont–Dundas–South Glengarry L)

Mr. Bob Delaney (Mississauga-Streetsville L)

Mrs. Christine Elliott (Whitby-Oshawa PC)

Ms. Sylvia Jones (Dufferin-Caledon PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches-East York ND)

Clerk / Greffier Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer, Research and Information Services

CONTENTS

Tuesday 5 August 2008

Subcommittee reports	SP-99
Services for Persons with Developmental Disabilities Act, 2008, Bill 77, Mrs. Meilleur / Loi de 2008 sur les services aux personnes ayant une déficience intellectuelle,	
projet de loi 77, M ^{me} Meilleur	SP-100
Dual Diagnosis Implementation Committee of Toronto; National Association	51-100
for the Dually Diagnosed, Ontario chapter	SP-100
Ms. Mary Jane Cripps; Ms. Susan Morris	
Metro Agencies Representatives Council	
Dr. Sheila Laredo	SP-105
Durham Family Network	
Ms. Melanie Kitchen	SP-110
Kerry's Place Autism Services	SP-112
Canadian Union of Public Employees, Ontario division	
Ms. Patricia MacFarlane	SP-117
Mr. Peter Marrese; Mr. Chris Bedwell	SP-119
Canadian Association for Community Living	SP-121
Canadian Union of Public Employees, Local 2191	SP-123
Autism Ontario	SP-126
Ms. Margaret Spoelstra	
Ontario Agencies Supporting Individuals with Special Needs	SP-128
Community Living Toronto	SP-131
Opportunities Mississauga for 21 Plus	SP-134
Families for a Secure Future	SP-136
Community Living Ontario	SP-138
People First of Ontario	SP-141
A Circle of Support; Oakdale Child and Family Service Ms. Andrea Rifkin; Ms. Lisa Bache	SP-143

SP-9



Government Publications

SP-9

Legislative Assembly of Ontario

First Session, 39th Parliament



Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 6 August 2008

Standing Committee on Social Policy

Services for Persons with Developmental Disabilities Act, 2008

Journal des débats (Hansard)

Mercredi 6 août 2008

Comité permanent de la politique sociale

Loi de 2008 sur les services aux personnes ayant une déficience intellectuelle

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2

Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Wednesday 6 August 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Mercredi 6 août 2008

The committee met at 0904 in the Sheraton Four Points, London.

SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES ACT, 2008

LOI DE 2008 SUR LES SERVICES AUX PERSONNES AYANT UNE DÉFICIENCE INTELLECTUELLE

Consideration of Bill 77, An Act to provide services to persons with developmental disabilities, to repeal the Developmental Services Act and to amend certain other statutes / Projet de loi 77, Loi visant à prévoir des services pour les personnes ayant une déficience intellectuelle, à abroger la Loi sur les services aux personnes ayant une déficience intellectuelle et à modifier d'autres lois.

The Clerk of the Committee (Mr. Katch Koch): Good morning, honourable members. It is my duty to call upon you to elect an Acting Chair. Are there any nominations?

Mrs. Christine Elliott: I'd like to nominate Mrs. Van Bommel as the Acting Chair.

The Clerk of the Committee (Mr. Katch Koch): Mrs. Van Bommel, do you accept the nomination?

Mrs. Maria Van Bommel: I do.

The Clerk of the Committee (Mr. Katch Koch): Any other nominations? There being none, I declare Mrs. Van Bommel elected as Acting Chair.

The Acting Chair (Mrs. Maria Van Bommel): Good morning, everyone. I'd like to call this hearing to order. This is a hearing into Bill 77, An Act to provide services to persons with developmental disabilities, to repeal the Developmental Services Act and to amend certain other statutes.

The proceedings are being recorded for Hansard, so for anyone who wants to speak, all comments will be on the Hansard record. There is also simultaneous interpretation available for anyone who needs it. One of our interpreters is in the booth there.

0910

FRED BLAKE

The Acting Chair (Mrs. Maria Van Bommel): At this point, I'd like to call our first witness to the table, and that is Fred Blake.

Welcome. I would like you to introduce yourself for the Hansard record. You have 15 minutes to make your presentation. You can use up the entire 15 minutes for that presentation, or if there is time left, we will have an opportunity for the members of the committee to make comments or ask questions. If you would like to start, please do.

Mr. Fred Blake: My name is Fred Blake. I live here in London, Ontario, and I am the proud father of a 28-year-old developmentally challenged adult. The good news, I guess, is that my son Stephen is on the bright end of the spectrum. He's bus-trainable. He's quite independent.

Just so that we're sure that we're not afraid of change, when we lived in Windsor, Ontario, we were involved in one of the first programs at Forest Glade elementary school in Windsor for half-day inclusion in regular class and a half-day separation for life-training skills. When we moved here to London, he was at Saunders Secondary School. He graduated from Saunders Secondary School, obviously, at age 21. Also at that school, he had some employment opportunities in the community.

I would like to focus on the employment opportunities for Stephen, and how I see whether Bill 77 would help that or not. After his graduation, I was proud to aid Community Living London in lobbying MP Joe Fontana and my own MP, Susan Barnes, for transition funding, which was extra funding that allowed Stephen to be placed in Plastic Packaging, which is what we call a sheltered workshop. I guess that's the term for it. It's run by Community Living London. Another workshop that they run where he is currently is Opp Art. He probably would never have got the opportunity, immediately after graduation, to be in those workshops absent that transition funding. In addition to having a place to go which he calls work, he also has had some employment opportunities in the community, at some gas bars and restaurants, mostly seasonal, mostly temporary, mostly parttime. But he has had some opportunities because of the skills he's learned and because of the support he's had through Community Living London.

What does Stephen have today? He has a place to go five days a week where he works at Opp Art. They have a contract there to do some gas meters, which he's quite proud to perform. He also has a part-time job at a dentist's office not far from the workshop doing some groundskeeping. Again, it's seasonal; obviously in the

winter that's going to end, but he does have a part-time

employment opportunity.

What I can't emphasize enough is that he really has no concept of that cheque, how much money it is, what it means. It's self-esteem. Even though he's working like that, he knows he's different. We get the questions all the time. "What's going to happen later? Why am I not like my brother?" so on and so on. It's very tough.

Again, he's had some opportunities through Community Living London. Why, you might ask, has it not been a complete success? Why is he not employed totally? Why does he still have to depend on the workshops? I would say specifically to you that there is not enough staff to support him in the employment opportunities. There are not enough employers in this community identified as being willing to employ people like my son. It's amazing how far we can go for physical disabilities and the accommodations we make for them. There don't seem to be the same opportunities for mentally challenged persons. Very high turnover of staff: He seems to be working with different people all the time.

But I have to say I am one of the lucky ones, we really are, because he has had those opportunities. He still has a place to go five days a week to work, he has some self-esteem and he is somewhat occupied. I have to tell you that, without Community Living London, he wouldn't have it; he would not have any of this.

So what happens if I was a person who had to access some direct funding, which, in my understanding, is one of the options in this bill? I have no idea where my wife or I would go to hire somebody, to get somebody, to have a comfort level that this is a very well-trained person, a committed person, a safe environment. I know that when Stephen goes to Opp Art it's a safe environment. I know those people there; they're excellent.

I don't know how I would hire somebody when I know that I couldn't promise them, perhaps, medical coverage, a pension plan. I don't know what I would do. What happens if that person gets sick or whatever? I just don't know what I would do. I don't know how I would go about achieving all those goals through direct funding.

What would be more important to me is that maybe Stephen has no place to go, maybe he doesn't have the self-esteem that he has now. I'm afraid that, if I was lucky enough to get somebody—I think I would be in a constant hiring mode—I just wonder if it would be like a glorified babysitting service. I just don't know if they would have the skills and the ability to access all the things that Community Living London has done for me.

I'm really nervous. I'm not a legislator or whatever, but I know there is a section in the bill, 40(1), which makes me a little nervous as a parent. I'm afraid that if Stephen is reassessed at one of these centres or whatever, I'm not sure—even though you say that he's not going to lose the services he has now, that makes me nervous, that he would be reassessed and perhaps lose those services.

I really don't think that the direct funding is going to solve the problem, because I believe that Stephen needs

the opportunity to get out in the community and to work more. If he has those opportunities, then I think it's a win for everyone, because now that he needs less of a level of support through your ODSP program, his self-esteem is better. I just don't know how we can achieve that unless we have committed and trained people, and people who can identify opportunities in the community. I really believe that agencies such as Community Living London can assist that if they had some more staff and resources to do that. I don't know how I would hire somebody with direct funding who would have those kinds of contacts and that level of expertise.

The extra transition funding that was given has already helped Stephen access what he has today. If there were more opportunities for him in the community and more resources with Community Living London he would have even more opportunities. I don't see direct funding accomplishing that. I believe it needs to be done through our agencies, which do a fantastic job, like Community Living London.

The Vice-Chair (Mr. Vic Dhillon): Thank you, Mr. Blake. Good morning, everybody. I apologize for being a little late this morning. There's about six minutes left, so we'll start with the official opposition.

Mrs. Christine Elliott: Thank you very much, Mr. Blake, for being here this morning. The comments from parents are most helpful and really help us point to the issues that we really need to deal with with respect to this bill. My understanding is that the individualized funding is not meant to replace the existing funding that will be going to community living organizations. I'll certainly ask the government members to clarify that.

With respect to your comments about the individualized funding and not knowing how to put a plan in place for your son, if there was a facilitator who could work with you and your family to put a plan in place, would you feel more comfortable with that?

Mr. Fred Blake: I'm not sure that they would have the training and the expertise that I know some of the staff at the agencies have. I don't want to be disrespectful, because I don't know who that person is, but I just would be very nervous about that. I have a comfort level going to an agency that's in "business" helping people like my son. I don't know if I would be as comfortable with an individual or if I could be assured that they would have the expertise to assist him.

Mrs. Christine Elliott: I think your comment with respect to the lack of vocational supports and so on for people who have a developmental disability is a point well taken. I think that this legislation is the start of changing people's ideas and advancing social inclusion. I think the next step is to go to businesses and say, "You're missing a lot of opportunities here." We need to start changing the response from businesses in that respect.

Mr. Fred Blake: I would be first on the list, right in front of you, behind you or beside you if you've got any employers who are interested.

The Vice-Chair (Mr. Vic Dhillon): The government side.

Mr. Khalil Ramal: Thank you very much for sharing that personal information with us.

I'm not sure what led you to believe that this bill would force you to quit seeking services from Community Living London. This bill gives flexibility to families and gives them the opportunity to seek support from the government, if they wish, to continue to care for their loved ones while they're able, physically, mentally and financially. I believe strongly that you can continue, if you wish, to seek services from Community Living London. I worked for Community Living London for quite some time; I know it's a good organization and a good place to support people with disabilities. Can you explain to us what led you to believe that if this bill passes you will lose your services with Community Living London?

Mr. Fred Blake: As I mentioned, if I'm reading 40(1)(b) correctly, it says he may be reassessed by one of your assessment centres or whatever you're calling those centres. So if he gets a new assessment or they target some new needs for him or whatever, I'm not entirely sure that that doesn't mean he would be asked to do something else rather than be supported through Community Living London. If I'm reading too much into it, I'm comforted by your comments. I just hope that I am, because that's my fear.

Mr. Khalil Ramal: I want to assure you that this bill is all about families and giving them some kind of flexibility and support to be able to choose the service they want, whether with communities or agencies or individuals, because as you know, parents know better about their loved ones and how they're supposed to be serviced. That's what the bill's all about. Hopefully, my comments will clarify your concerns and make you comfortable.

AUTISM ONTARIO

The Vice-Chair (Mr. Vic Dhillon): The next presentation is from Autism Ontario.

You have 15 minutes. Please state your name for the record.

Ms. Patricia Gallin: My name is Patricia Gallin. I'm a member of Autism Ontario, London. I'm also the parent of a 23-year-old son with Asperger's syndrome.

I really welcome the opportunity to make this submission on Bill 77. We really applaud the Ontario government and the Ministry of Community and Social Services for updating the Developmental Services Act.

Just a little bit of information Autism Ontario: We are a volunteer network of 30 chapters throughout the province and we represent thousands of families living with children and adults with autism spectrum disorder. Many years ago, when rates of autism were one in 1,000, Ontario was unable to meet the needs of this vulnerable population. Currently one in 150 children are diagnosed with autism spectrum disorder, and these children grow

up to be adults with ASD. Applied to Ontario's population, many of its 50,000 adult citizens will require the supports identified in the proposed legislation in addition to many other health, education and community supports.

Ontarians with developmental disabilities need legislation that helps each individual to reach their goals and dreams and allows them more choice and flexibility in the services and supports each receives. They and their families need a bill that fosters inclusion within the wider community and, equally important, encourages independence. It is admirable that this new legislation promotes citizenship, fairness, accessibility, accountability and sustainability. For these principles to succeed, adequate funding has to be forthcoming to fulfill the total obligations under this proposed legislation.

The feedback that I am going to give this morning is drawn from Autism Ontario working group meetings and also from polling our membership. I would like to address our areas of concern.

We're really gratified that using an IQ score is no longer a prime consideration for eligibility under Bill 77. Previously, the benchmark was an IQ of less than 70, and this definitely made higher-functioning individuals with ASD, which includes Asperger's syndrome, ineligible for services in some parts of Ontario. Fortunately, in London I have not run into that with my son.

In Bill 77's definition of developmental disability, mention is made that this disability was to have "originated before the person reached 18 years of age." Many people with autism spectrum disorder will not be correctly diagnosed until adulthood due to a lack of expertise and training of professionals, even though, by DSM-IV diagnostic criteria, they would have met the required criteria for the diagnosis prior to their third birthday. It is our expectation that this systems capacity gap would not make such individuals ineligible under the currently proposed definition of a developmental disability.

Under point 4, professional and specialized services, we would like to see included employment and job-training services, psychological services or any therapeutic services. Where services are mentioned in the bill, we would like it to read "services and supports."

Also, application centres: We feel it is unwise to have all of the listed roles set out in the bill undertaken by a single type of entity. The government should limit the roles of the application centres as well as institute a system of regulatory safeguards to deal with conflicts of interest. If the application centre is also a service agency, choices facing the individual may be somewhat constrained. The bill also further confuses things by introducing the concept of a service coordinator without explanation. This role needs to be clarified, especially if that person may be given funds to purchase services.

Under Bill 77, direct funding may be given directly to an individual with the assistance of a facilitator by the application centre or may be administered by the application centre for the benefit of the individual. What are the stated criteria upon which the direct funds are allocated? Will the funds be based on existing services and supports currently available, or will the application centre, with the assistance of a facilitator or individual planner, seek out specialized services and supports more suited to the individual's needs? Might there not be a conflict between the services and supports offered by the application centre/agency and the demands of the individual? This is especially crucial for individuals with ASD, where more specialized and not generic services and supports are really vital.

Also, to ensure that well-qualified and -trained staff can be hired by the individual, they have to be paid a livable wage compared to staff in service agencies. Will the bill ensure this?

0930

Individuals and families enter into a direct contract with MCSS for funding. For this process to be fair and equitable, the individual/family/advocate should have had the assistance of an independent planner/facilitator in order for them to make decisions in an informed manner.

Independent planning and facilitation should be available for families or individuals once they are eligible for funds, and further capacity to appropriately serve adults with ASD must be developed in rural areas in order for the funding of eligible individuals to be meaningfully utilized.

Application centres and the development of a service profile, section 18 in the bill: Under the bill, the service profile would have to satisfy the provisions under the definition of "developmental disability." Our concern is, what are the qualifications of those working in the application centres? Would they have the training and education in autism spectrum disorders necessary for an appropriate understanding of the unique characteristics of this population?

Another problem is the wait lists and prioritization. People's essential needs should not be addressed through wait lists and prioritization regarding "most needs" criteria. If application centres are premised on the inevitability of wait lists, then they will never receive adequate funding. I was very surprised to see wait lists written right into the bill. Without adequate funding, the majority of applicants are going to be denied service. The wait list system will continue to create inequities, service decisions based on resources, and to ultimately rely on aging parents to be the backup and unfunded system of support for these vulnerable individuals.

The legal capacity of an individual should be recognized in the bill, along with providing supported decision-making with a planner and facilitator so that people can enter into an agreement for direct funding without surrendering authority to a substitute decision-maker.

We're very pleased to see that the safety and security of adults with developmental disabilities is being protected by home inspections. Bill 77 should ensure that any official entering the home of an adult with a developmental disability must secure a warrant based on reasonable assumptions of wrongdoing or serious neglect in the home. This should apply equally to all types of resi-

dences, including supported group living residences, intensive support residences and people's private homes.

We do have concerns about potential conflicts of interest if those doing inspections are also employed by those running the home. The recent death of Tiffany Pinckney, a young adult with ASD left in the care of her family without monitoring, reminds us that no mechanism currently exists to keep such a tragic story from happening again in Ontario.

About the service profile in the act: What will happen if the individual needs a service not available in their geographical area? Will an individual's service profile be updated regularly? Will outcomes be measured to determine if the profile was accurate?

Once eligible funds are made available, we want to ensure flexibility, accessibility and portability. If they want to use them in another accepted manner, we hope that can be done, and if they move to another jurisdiction in Ontario, we hope the funds will move.

An appeals process independent of the application centre should be instituted using an unbiased third party.

Finally, there should be an opportunity for public consultation when finalizing the regulations for Bill 77. The people establishing the regulations should have expertise in the full range of developmental disabilities, including ASD.

I really appreciate the opportunity to provide input on Bill 77. Do you have any questions?

The Vice-Chair (Mr. Vic Dhillon): Thank you so much. About two minutes for each side, starting with the government side. Mr. Levac.

Mr. Dave Levac: Thank you very much for your presentation. I appreciate Autism Ontario's complete vision of what we're trying to do in the bill, and I definitely appreciate the fact that you've recognized we're moving forward. No bill is written perfectly, to be very frank; no one's got a monopoly on how to write a perfect bill. That's unfortunate, but there are some changes being contemplated.

The one you talked about, in terms of waiting lists: Historically, just as an "are you aware," there have been bills written with wait lists in them going way back to 1992, by the NDP. They put in the waiting lists to acknowledge the fact that they've got something to target and move forward on. The example I give you is one everyone is aware of, in terms of hospitals. Hospitals have waiting lists; there's a strategy put out on how to deal with a waiting list. The acknowledgement of this waiting list does not entrench, to be clear, an excuse not to invest. Quite frankly, the opposite happens. In every one of the pieces of legislation that had waiting lists entrenched in the legislation, more money was spent to accommodate getting rid of or improving the waiting lists.

I just wanted to alleviate some of your concerns and fears. It's not an entrenchment of not getting money; it's actually an entrenchment to encourage more investment, and we believe that that's going to happen. We've already invested about \$500 million.

The Vice-Chair (Mr. Vic Dhillon): Quickly, Mr. Levac.

Mr. Dave Levac: I just wanted to give you some clarity on that specific issue, and if anyone says it's not entrenched, there are legislations that have entrenched waiting lists.

Ms. Patricia Gallin: Thanks for that information. Let's hope that it means more funding.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. Opposition side.

Ms. Sylvia Jones: Thank you. Excellent brief, Ms. Gallin. I appreciate it. Just to continue on the waiting list angle, I would like your feedback. Even with the waiting list entrenched, it's my understanding that with ASD and Autism Ontario their concern would be if it is based on level of need, then you would be on the waiting list for a very long time. Can you expand on that?

Ms. Patricia Gallin: I think there has to be an opportunity to help people in crisis, but maybe there need to be two kinds of waiting lists. Maybe there need to be funds to support people in crisis, but also there need to be funds available to help the broader population.

Ms. Sylvia Jones: Chair, do I have time?

The Vice-Chair (Mr. Vic Dhillon): Go ahead, yes.

Ms. Sylvia Jones: My second question is related to application centres. You mentioned that you would like to see their role limited. Do you have some suggestions for the committee on which roles you would like removed, or expand on the application centres and what you want taken out or kept in?

Ms. Patricia Gallin: I have a list in the report that I didn't touch on. Under the "application centre" heading we've got some things listed, so those would be the areas that we'd like to see—

The Vice-Chair (Mr. Vic Dhillon): You have some time if you want to state your answer further. It's up to you—no pressure.

Ms. Patricia Gallin: Rather than repeating them all, they are listed in the presentation.

Ms. Sylvia Jones: Yes, it's perfect. It's on page 3.

Ms. Patricia Gallin: Yes. Ms. Sylvia Jones: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Ms. Patricia Gallin: Okay. Thanks so much.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 3943

The Vice-Chair (Mr. Vic Dhillon): Next we have the Canadian Union of Public Employees, Local 3943.

Welcome to the committee. If you can state your name for the record, you may begin. You have 15 minutes. Any time you don't use will be divided amongst the two parties.

Mr. Jim Beattie: My name is Jim Beattie. I'm the president of CUPE Local 3943. Good morning. I want to commend the committee for holding these hearings and to thank you for the opportunity to present our views on

this extremely important piece of legislation. I am here representing over 500 front-line workers employed by agencies that provide developmental services and supports in and around Hamilton.

Our members provide day supports, respite, residential, employment and SIL supports, as well as other supports to over 1,000 individuals. As a front-line worker myself with over 20 years' experience, I've seen how services for people with a developmental disability have changed over the years. Much of that change has been for the better and, while we still have a way to go, we clearly have made progress towards the goal of ensuring that individuals with a developmental disability become full participants in our communities and our society.

Many groups and individuals have been responsible for the positive changes that have occurred and, while acknowledging that, I want to emphasize the role played in those changes by community-based non-profit agencies, agencies like the one I work for, which has been at the forefront of those changes. This, despite the fact that funding has never kept pace with the needs of the individuals whom the agencies support.

0940

It's not surprising, though, that these agencies have been in the forefront of change. Many board members and staff who work for community agencies have close family connections with individuals who receive support. Given the crucial role that community agencies play in the planning and delivery of services and supports to individuals, it is disturbing that greater emphasis isn't placed on their health and long-term viability in Bill 77.

I want to draw your attention to certain aspects of the legislation that we believe need to be amended, and I'll only comment on three areas. Yesterday, a number of concerns were expressed regarding the creation of application centres which the legislation, if passed, will create. I don't want to reiterate all the valid points that were made yesterday, and this morning as well. Instead, I want to speak about our experience in Hamilton.

During the 1990s under the then-Harris government, Contact Hamilton was established. Contact Hamilton was and is an agency funded by the government that provides intake, assessment and referral services for children and individuals with a developmental disability. It is a separate entity from community-based agencies. When it was established, there already was in existence an organization under the auspices of the community agencies, and that organization provided intake, assessment and referral services for families and individuals seeking support. The organization was similar to the one that currently exists in Toronto that you heard about yesterday. Despite its usefulness, though, Contact Hamilton replaced it. To fund Contact Hamilton, the government then clawed back almost \$1 million from the budgets of the agencies in Hamilton—which brings me to the point: How does the government propose to fund the application centres in the legislation? Will, like Contact Hamilton, the funding be taken from existing agencies to establish these assessment centres, and how much will

that cost on a provincial basis? Why do we need to create another level of bureaucracy when it's clear that agencies can do this task?

I want now to turn to the issue of waiting lists and, again, I won't reiterate all that has been said on this issue. Suffice it to say, though, that it is unconscionable in Ontario in 2008 that we could even contemplate enshrining into legislation waiting lists for supports and services that individuals need to fully participate in society. Access to those services must be a right.

On this issue of waiting lists, I want to give you an example of what can happen when individuals are placed on a waiting list without access to services. In the mid-1990s, Sally—not her actual name—was enrolled in the day program where I worked at that time. Sally was in her mid- to late twenties and had been without services and supports for a number of years. When Sally graduated from school, she was outgoing, happy and with good skill sets but without services and supports for a number of years. By the time she enrolled in our program, all of that was gone. She was withdrawn and lacked confidence, and her skill sets were greatly diminished. This is because she had gone without supports and services for so many years. We need to remove waiting lists from the legislation.

The final issue we'd like to address is one of identified needs in relation to community agencies and the services and supports they provide. Again, I'll use examples from Hamilton and the handout. If you turn to pages 36 and 37 in the handout, you'll see the variety of services and supports requested by families and individuals on waiting lists with Contact Hamilton. You'll note that the greatest number of requests are in day supports—127—and accommodation—81. On page 37, you'll see a chart that predicts future needs. Again, the greatest number of requests are in day supports—186—and accommodation—455. Many of these day supports and residential services have been and will continue to be administered through non-profit community agencies.

On the last four pages of the handout, pages 37 to 40, it addresses the issue of requests for Passport funding. I want to particularly draw your attention to page 40, table 50, "Modes of Funding." What it essentially shows there is that many applicants who have initially requested direct funding to act as their own employers have, after they've received funding, decided to receive agency services. This is also true of the current SSAH program, where there are 336 contracts administered by Community Living Hamilton, as opposed to far fewer contracts where parents act as their own employers.

This data is consistent with other findings, and it is that the majority of individuals and families, given the choice, will access community-based agencies for supports and services, rather than act as their own employers.

In closing, we want to reiterate our conviction that quality supports for a person with a developmental disability can only be sustained through public, not-forprofit, mandated services in an adequately funded community agency system where workers are compensated fairly and provided appropriate training and skills enhancement and where supports meet the needs of individuals.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We have about four minutes each. We'll begin with the opposition. Mrs. Elliott.

Mrs. Christine Elliott: Thank you very much for your presentation. One of the questions you have raised is with respect to the application centres: how they're going to function and whether they're going to be another level of bureaucracy. That question, as you may know, has been raised by a number of organizations and presenters we've heard from, and I believe that is something that will need to be clarified as we move forward. I would just ask that the government members consider that. There's a lot of confusion about that, and that really needs to be dealt with as we move forward with this piece of legislation.

The other issue you were talking about, the need for day supports for people with developmental special needs: There are a number of programs out there, offered both by private and not-for-profit organizations. Are you saying that none of the private agencies are an option for people?

Mr. Jim Beattie: In Canada, we generally hold the opinion that health care shouldn't be a for-profit industry. We feel the same thing with the provision of services and supports for individuals with a developmental disability.

Mrs. Christine Elliott: But wouldn't you also agree that to have a range of choice is a good option for parents because every individual is different?

Mr. Jim Beattie: We agree that there is a range of choice out there. We also feel strongly that, as I said, the vast majority of people will be seeking supports from community-based agencies and that this bill does not address the long-term health or viability of those agencies. There needs to be something in this bill that addresses the agency system.

The Vice-Chair (Mr. Vic Dhillon): Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. First of all, I want to thank you for the job you do on behalf of many workers across the province of Ontario. There's no doubt in my mind that the front-line workers who work with many different agencies and group homes across the province of Ontario do an excellent job in order to serve the vulnerable people among us. That's why our government, in the year 2006, invested substantially in supporting those organizations and workers to continue to work and also narrow the gaps, as your union and many others brought to our attention.

My question to you: You don't believe in some kind of standards across the province of Ontario in order to assess people and give them a chance to be equal from the north to the west and to the east and to the south? As you know, at the present time we don't have that standardization, and people move from spot to spot in order to get assessments for their loved ones.

The second question is: You don't think parents have a right to choose the service they want if they decide to keep their loved one at home but they're looking for extra support?

Can you tell us what you think about those questions?

Mr. Jim Beattie: The first one is around a common assessment tool?

Mr. Khalil Ramal: Yes. Application centres.

Mr. Jim Beattie: Yes, we do believe that there needs to be a common assessment tool to gauge the depth of support that's needed by individuals across the province. I think that one of our presentations yesterday brought that out, but I could be incorrect on that. Nonetheless, we do feel that's necessary.

On the second point, we provide services already in parents' homes, and a number of my colleagues with Community Living Hamilton do go, in various capacities, into individuals' homes.

0950

Mr. Khalil Ramal: But what led you to believe that passage of the bill will cut that service and convince the

parents to otherwise not seek your service?

Mr. Jim Beattie: We believe that the bill, because it doesn't address the fiscal issues—or we don't see it in there—of agencies, will endanger the long-term health of community-based agencies, particularly with the individual budgeting, where a cost is assigned or can be assigned by application centres to a specific individual. We don't see other issues that need to be addressed financially in the bill there. We believe that the bulk of the changes in this legislation, as opposed to the current act, are around brokerage, individualized funding and those types of things, but not around the overall health of the agency system, which at this current time most people request supports and services from.

Mr. Khalil Ramal: As I mentioned to you, in budget year 2006 we invested a lot in many different agencies across Ontario to address their needs, especially the wages and services for vulnerable people in the province. So that's why we cannot say we're not addressing this issue. This bill came in order to support families, as I mentioned to you, who came to us at many different times seeking support. They said to us and to the people, "We want to keep our kids or loved ones at home. We want to look after them and we're not able to do it. We need some kind of support." That's what this bill is all about—about families, about support for the people who wish to continue supporting their loved ones.

I want to assure you, it's nothing to do with union or against union; it's focused totally on families. The families, if they decide to go to Community Living London or Participation House, whatever organization across the province of Ontario, it's their wish. They'll be seeking some kind of support and training that we are going to place in the province—three spots—to create awareness about families, if they wish, to take this opportunity and ask for funding.

The Vice-Chair (Mr. Vic Dhillon): Okay, thank you very much.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 4370

The Vice-Chair (Mr. Vic Dhillon): Next, we have the Canadian Union of Public Employees, Local 4370.

Good morning, folks. If you can state your names before you present, you have 15 minutes. Any time not used will be divided among both parties. You can start.

Ms. Cheryl Marshall: My name is Cheryl Marshall. I've been a caregiver at Community Living Sarnia for the last 20 years and I'm chief steward of CUPE Local 4370.

Mr. Brian Biggers: My name is Brian Biggers, president of CUPE Local 4370, and I've been a caregiver for 17 years.

Ms. Cheryl Marshall: First and foremost, we'd like to thank the standing committee for giving us this opportunity to speak to you on this important issue. As I already said, my name is Cheryl Marshall. I'm chief steward of CUPE Local 4370, representing workers in Sarnia—Lambton. This is Brian Biggers beside me, who is the CUPE president of 4370. Between the two of us, we've got almost 40 years' experience working in the social services sector. I've also been asked to speak by local leadership representing the workers in Essex, Windsor and south Huron to make comments from our region as a whole.

As we worked together to review the bill, it became clear that our experiences with the current system and our concerns with this bill are very similar. Over the years, we've watched the developmental services sector move leaps and bounds in the direction of providing the services and supports to meet identified needs of individuals with developmental disabilities.

Sorry if I go a little too fast. I've got a lead tongue instead of a lead foot.

This being said, there are still many who do not receive all the supports they truly need. Some are without needed supports and other individuals and families struggle with inconsistent support due to availability of supports and services.

As front-line workers and service providers, we recognize that there are problems with the delivery of services and supports for persons with developmental disabilities. We hear families and workers in our area saying, "We need improved access to supports and services." We need access to a wider range of services and supports so that individuals can have individualized plans developed to meet their needs. We need a strong system that people can rely on and, most importantly, we need a high quality of supports and services.

We do not believe that Bill 77 responds to these challenges. We are concerned that: There's no commitment in the legislation to guarantee a level of supports and services that individuals and families can rely on. Currently, we all too often see individuals finally being able to access residential services only when their family comes into crisis and can no longer care for them. This is not appropriate or fair to individuals or their families. Due to the lack of funding, this transition is not planned

in a respectful and supportive way. There needs to be a level of service provided that is mandated, no matter where you live in Ontario.

The application centres are evolving as a new bureaucracy, rather than an expectation that agencies work as a collaborative model. As they already have the experience and structures to do this work, we do not need the emergence of a new bureaucracy that unnecessarily bleeds away resources from our agencies.

There is no legislative requirement to use common assessment tools to determine the eligibility in order to ensure consistency across the province.

The bill entrenches waiting lists, which has been mentioned before. When talking to colleagues in other services, we understand that waiting lists are not something that the government has included in other legislation. It raises big concerns. Why is it necessary in developmental services legislation? For example, in the county of Windsor-Essex, there are 255 people currently on a waiting list with no service. To me, that is huge. Subsection 19(4) states, "If there are not sufficient funds available in an application centre's geographic area to provide one or more services specified in an applicant's service profile immediately or, where direct funding is requested, to provide the direct funding immediately, the application centre may place the applicant on a waiting list"—which is no good—"for the services or funding, as the case may be."

Why, if my child has been assessed in one part of the province, should I be denied access to the supports based on geographical funding? Do families need to move to follow funding from region to region? Where is the consistency in similar degrees of developmental disabilities?

Direct funding does not always ensure there will be services available to the families when they need it. This bill allows the purchase of services and supports from third parties or brokers. It opens a very real possibility of fly-by-night operators and the expansion of for-profit organizations. This means a focus on finding a profit out of already limited funds going into this sector. We have seen home care and nursing homes shift to for-profit providers and a system of competitive bidding which is not good for quality of service. Rolling back to the cheapest way of service provision is not good for those we support and for those who provide the support. It is lose-lose.

Taking a system that is already struggling and fragmenting inadequate funding to potentially hundreds of new employer relationships through direct funding makes quality of service accountability virtually impossible. The ministry's Spotlight newsletter states that the bill grand-parents those adults who have received services and they will not have to reapply or be reassessed for eligibility. But in the language of the bill—clause 40(1)(a)—it says that those receiving supports when the act comes into effect are "deemed to be eligible for services and funding" and in (b) "shall continue to receive, or benefit from, those same services until such time as the application centre for the geographic area in which the person resides conducts a reassessment," which we find very disturbing.

We worry that this is a loophole; that while adults are eligible for funding, they may have levels of funding and/or services reduced when the application centre for the geographic area in which the person resides conducts the reassessment. The word "until" becomes a big concern.

1000

There are families who are interested in the direct funding models. The parents we have spoken to believe direct funding is better than sitting on a waiting list. When we talk about the monies the families have actually received through special services at home or Passport, they say it has not really addressed the needs of their child. They say it's come to a Catch-22. It's one way or the other: Either they pay more and try to get someone who's going to stick around and then go with less service time, or they pay less and get more service hours, and then they see a revolving door of workers. They have said that finding and keeping people is daunting. In addition, they are concerned about assuming the responsibility and the liabilities of an employer. If agencies are having difficulties finding and keeping staff when they provide some benefits and pensions, how are families going to recruit and keep qualified staff?

When consistency of who is working directly with the people is so vital, there is a big concern with direct funding translating into revolving doors of care providers who are not part of an agency which ensures training and accountability. We believe that rather than addressing the challenges we experience in this sector, elements of Bill 77 will further erode the community-based agency while not really providing more choices to parents. Addressing the needs of individual disabilities takes resources. With a system that continues to be underfunded, no model can

really be effective.

The bottom line: Our vision is where individuals and families can be supported based on their individualized plan. Whether they participate in community programs, agency programs, are employed or not, live in residential programs, independent living or with their families, required support needs to be reliable, consistent, flexible and responsive. If the supports include needing staff support, then the worker needs to be trained, supervised and have a working condition that reduces the challenges we have seen across the province when it comes to training, recruitment and retention. We believe the services and supports that require staffing are best delivered through an appropriately funded non-for-profit community living agency structure.

Thank you again for this opportunity to address you today.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Ms. Cheryl Marshall: Sorry if I rushed through. I apologize.

The Vice-Chair (Mr. Vic Dhillon): That's fine. Three minutes each side.

Mr. Khalil Ramal: Thank you very much for your presentation. You mentioned all the talk about the needs

of access to service in the communities. We talk about choices. We strongly believe that Bill 77 will create more choice for families. This does not mean that the family will have the total ability—some families, of course—to do the services by themselves. I agree with you. They're not able to do it. That's why this bill will create a choice for them, whether to do it themselves or to seek service from agencies and Community Living across the province of Ontario. You don't believe that parents have a right to that choice?

Ms. Cheryl Marshall: No, I believe they have a right to that choice, but at what cost is it going to be to them? I live in a border city. I can go and get an MRI done without a waiting list, but it's going to cost me \$5,000. If I want to get it done in Ontario, I'm put on a waiting list for five to 10 months.

Mr. Khalil Ramal: You have to remember, we're talking about choice.

Ms. Cheryl Marshall: I know, but choice—

Mr. Khalil Ramal: Choice for the families—not yours, not mine—theirs, because they know better how to look after their kid or their loved one. That's what the bill is all about: giving them the choice. If they decide to keep their kid or loved one at home and they need some extra support, they have a right, I think, to seek whatever support they're looking for. This is my concern, because we heard many different people who came before the committee yesterday speak about their choice, their right. Of course, your job as a union representative or representing the workers of Ontario is to speak from your own point of view, which I respect and honour, but in the end, it's about choice for the families.

Mr. Brian Biggers: Absolutely. We agree that families are ultimately the ones that have the choice, and we believe that if agencies are properly funded they will have the choice to have a structured setting where the employees are trained adequately and that they have protection if they get injured on the job.

Mr. Khalil Ramal: We're talking about agencies and organizations. I respect agencies and organizations. I was a part of those agencies for many years, and I worked for them. But—we're talking about families—we cannot expand and broaden the support from agencies, communities and group homes to families, to give them a choice, if they seek this service or other services. That's why we're talking in Bill 77 about the choices.

Also, you mentioned the application centres—just another question, a quick one. You said that people move from area to area to seek support and get assessed. So by establishing the application centres, we'll have standardized assessment across the province, so then the family wouldn't have to move. You don't think this is the best way to do it?

Mr. Brian Biggers: I just think that the people who are working with the individuals are the best ones to do the assessments. Who is going to be doing the assessments? That's our question.

Ms. Sylvia Jones: I have a couple of questions. You mentioned in your brief about waiting lists—specifically

250 on a waiting list for Windsor. Can you expand on that? What are they waiting for exactly? Is that residential, respite, a day program?

Ms. Cheryl Marshall: When I was given this, it was 255 people total on a waiting list; 130 on a wait-list who have no support at all—

Ms. Sylvia Jones: So they're looking for anything?

Ms. Cheryl Marshall: Sorry?

Ms. Sylvia Jones: They're looking for anything.

Mr. Brian Biggers: They're looking for anything, yes.

Ms. Cheryl Marshall: And these are families.

Ms. Sylvia Jones: So they would have had their assessment and now they're—okay. Sorry to interrupt.

Ms. Cheryl Marshall: Okay. So 89 families are asking for 24-hour support; 64 are asking for day support—of the 255—63 are asking for individual, specialized support; and then there are 127 respite, and 70 of those are adults. That's what Bill 77 deals with—adults. That's where that comes from.

On the adult list, some of these people have been on the waiting list for 10 years. When it happens with 10 years, not only does the person age, so does the parent. Now you've got brothers and sisters coming back in and they've got to move maybe across the province or move their brother or sister across the country.

Ms. Sylvia Jones: Real quick: You mentioned the application centres, that you envision a new set of bureaucracies, another hurdle that families would have to go through. Would you, then, say that the existing community living system for assessment is the way to keep it? If you don't want the application centres and see them as bureaucracy, what do you want to see?

Ms. Cheryl Marshall: I think what we want to see is that if there are going to be application centres that they work hand in hand with the people who are providing the service already and the people who are trained. What happens eventually is that when we work with individuals, we actually become a part of that core group, that family group, and when we're working with their son for 30, 40 hours a week, we understand services and some things—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Ms. Cheryl Marshall: Thank you very much.

COMMUNITY LIVING TILLSONBURG

The Vice-Chair (Mr. Vic Dhillon): Next we have Community Living Tillsonburg.

Welcome to the committee. You have 15 minutes. Before you begin, could you please state your names for the record?

Mr. Bob Parsons: Thank you, Mr. Chairman and members of the committee. Good morning. My name is Bob Parsons. I'm the president of Community Living Tillsonburg. With me today is Marty Graf, executive director of our agency.

Community Living Tillsonburg is an agency that supports people with a disability in Tillsonburg and surrounding areas. We are also a member of the Ontario Association for Community Living.

We want to thank you today for this opportunity to share our thoughts and beliefs on Bill 77. We trust that you will take our recommendations into consideration when reviewing this bill. Since the current legislation has been in place since 1974 with only minimal change, we believe it is important to take the time and get it right, rather than getting it passed within a short time frame.

As you are aware, the southwest region was the location of six out of seven labour disruptions last summer. Our key message to you today centres on the importance of recognition of the rights of individuals supported by community living organizations while living in their own homes. Some people would call these group homes. The Ministry of Community and Social Services recognizes these arrangements as group living. In our current language, we continually strive to recognize that they are residential homes of the people living there. People were adversely affected by the strikes at their homes during the 2007 labour dispute. The rightful entitlement to enjoy the peace, tranquility and security of their own homes, as deserved by any Ontarian, was taken away. Their relationships with their neighbours were affected significantly. We believe that no other citizens in Ontario are subject to having strikes occur at their home, whether they are owners or tenants. People who are supported by Community Living need to have their rights respected as well.

We ask the government, through this committee today, to ensure that Bill 77 protects the rights of all Ontarians within the developmental services sector whose health, safety and well-being are shamefully placed at risk during a labour dispute. We believe that Bill 77 is a timely and important opportunity for the government of Ontario to provide assurance for continual quality care by ensuring that all Ontarians within the developmental services sector will never be subjected to such dramatic changes as having to deal with replacement workers to take care of their personal day-to-day survival needs. We ask that Bill 77 contain improved regulations that will remove the right to strike by workers who are responsible for providing a continuum of care.

We ask, too, that you consider the impact of this legislation from a human rights perspective. The right of an inspector to enter a premises without notice and without a warrant, we perceive, is going against the right of any Ontarian. We need to ensure the peace and security of citizens within this sector within their own homes. We support the current responsibility for ministry staff to be involved in compliance reviews, and we must continue to work together in ways that respect the dignity of the people we support by ensuring that due notice is provided. Currently, individuals are notified in advance of compliance reviews. Our experience has proven that this will work and is fair and practical to all stakeholders. If the government believes that they should be making un-

announced inspections, then a warrant should be obtained first.

Ontarians within the developmental services sector have not exclusively had all of their rights protected over the years. We are at the threshold of an opportunity to correct this with some additional amendments to Bill 77. We ask you to consider a made-in-Ontario solution in regard to the concept of supported decision-making. This is an alternative to current legislation under the Substitute Decisions Act. It is our belief and our experience that when people with an intellectual disability are involved in decision-making, their decisions are usually far better decisions than those made when others make decisions for them. It is our understanding that the UN charter on disabilities has recognized the concept of supported decision-making, and Ontario has led the way in this approach, and it should be incorporated into the changes being recommended to this act.

As an agency, we also provide supports to children with intellectual disabilities and their families, as well as adults with intellectual disabilities. While this act focuses on adults primarily, we believe that the development of lengthy application forms and assessments that are based on negative perceptions of individuals may not achieve the success the government would like to see for the developmental sector. We have, throughout Ontario, agencies that have over 50 years of experience in helping people with intellectual disabilities achieve their goals and visions and improve the quality of life through good plans and good support services. We fear that these application centres' related forms and assessment process will only lead to people being added to waiting lists, rather than having them access the supports they require to live as full citizens in our community.

We appreciate the efforts by this government and all governments that have worked towards the closure of institutions that this bill recognizes. We fully support and endorse the move towards more choice in terms of individualized and direct funding. We see these as steps that will continue to improve what is available for people with intellectual disabilities.

We would reinforce that it is important to get this bill right and set the stage for many years, since acts of this type do not change very often, as experience shows.

In closing, we ask that you take a human rights approach to this bill. We ask you to consider their right to enjoy the peace and security of their homes so that picketing does not occur there. We ask you to consider their rights to enjoy the continuity of their services because we do believe that we provide essential services. We ask that you consider their rights so that ministry inspectors would provide notice for inspections and/or require a warrant if circumstances deem necessary. We ask you to consider the concept of supported decision-making.

We thank the committee for your time today and we look forward to the support of the government of Ontario through effective and appropriate legislation to meet the needs of all Ontarians within the developmental services sector.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. About four minutes each side. The government side; Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. You mentioned many different elements, and we can just focus on two things within the boundary of Bill 77. You mentioned inspection without notice. I guess you're against it because you want the government, before visiting any place, to have a warrant first; apply for a warrant. How can we ensure transparency and eliminate all this abuse from happening on a regular basis?

Mr. Marty Graf: The current processes do work. We believe that compliance reviews, when they're done on a regular basis, are effective in ways to ensure that proper systems are in place. We also have other systems in place where serious occurrences are reported on a regular basis. Those are reviewed by the ministry personnel. We think those combinations of both the compliance reviews and the serious occurrence reporting give the ministry offices and their current staff ways to know whether an agency is doing its job properly or not. We've seen, through those processes, when agencies have not been doing their jobs, that those agencies have been given proper notice and their service contracts have been taken away. Those services were handed over to other agencies when they went out to tender, if you will. So we've seen the experience that the compliance review processes and the monitoring of serious occurrences are two of the main tools that the ministry uses already, and we've seen the effectiveness in that we've seen agencies lose their contracts, based on reviews of serious occurrences and reviews under compliance reviews.

Mr. Khalil Ramal: How can we comfort the parents, who very often report certain agencies and places for abuse and other improper management?

Mr. Marty Graf: Years and years of our history of experience. We've gone through many years of having compliance reviews. We have to, as well, recognize that—again, part of what we were trying to present today was on the rights of individuals. Because people are receiving supports and services, we believe that, on ordinary inspections, people should be notified who live in those homes so that they can be prepared, because for some of them, it is a traumatic experience to have someone they don't know come through their homes and begin asking all kinds of questions.

Mr. Khalil Ramal: But as you know, under Bill 77, private homes are not subject to inspection—

The Vice-Chair (Mr. Vic Dhillon): Thank you. If you can just quickly reply to Mr. Ramal, as we have to move on.

Mr. Bob Parsons: Can you finish the question, sir?

Mr. Khalil Ramal: Yes. I'm saying that private residences are not subject to inspection, as you know, in this bill. Only businesses and whatever head offices.

Mr. Marty Graf: We certainly don't have a problem with inspections coming in unannounced to the head office, for example; no problem at all.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. The opposition; Mrs. Elliott.

Mrs. Christine Elliott: Thank you very much for your very thoughtful presentation. I certainly do agree with you that this a bill with which we should take a human rights approach, because after all, it's not just about an allocation of funds. It's about promoting social inclusion and building meaningful lives for all citizens in our community.

I'm really intrigued by the concept of supported decision-making. We've heard several groups mention that. I'm just wondering if you agree with the comments made by some people that it would be helpful to have a facilitator, someone to help build those circles of support around people, to help them make their own decisions and to help them have meaningful people in their lives after their friends and family, or their parents, particularly, are no longer there. Do you have any idea how you would like to see that work ideally?

Mr. Bob Parsons: We're doing that now.

Mr. Marty Graf: We are aware of many great facilitators in the current system. Some of them are connected with CSCN here locally. There's a lot of great talent out there who have been leading the field in the development of circles of friends and the development of helping people in these supportive decision-making processes. There hasn't been a formal recognition, if you will, from the system on the concept, but the expertise has been doing this for the past 25 years.

Mrs. Christine Elliott: Do you think it would be helpful if that was more formally enshrined in the legislation as something that goes hand in hand with the funding you need to have that planning aspect and the recognition of the rights of the person to participate?

Mr. Marty Graf: We think that would be a very good essential component of the act. We have great planners out there. We have great facilitators for people to access that type of skill set and those types of individuals who are very committed to seeing that desires, dreams, goals and visions of the individuals are brought forward. What we've seen is some great work by those kind of players in our field.

Mrs. Christine Elliott: Thank you very much.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Mr. Bob Parsons: Thank you, Mr. Chairman, members of the committee.

COMMUNITY LIVING CHATHAM-KENT

The Vice-Chair (Mr. Vic Dhillon): Next, we have Community Living Chatham-Kent.

Good morning and welcome to the committee. If you could state your name for the record; you have 15 minutes.

Ms. Lu-Ann Cowell: Certainly. Good morning. My name is Lu-Ann Cowell. I'm the executive director of Community Living Chatham-Kent and I chair the provincial executive directors' coordinating committee. I

have 33 years' experience working with the community living agency in Chatham and have seen the changes over the years in terms of supporting people with intellectual disabilities to become contributing citizens of their communities.

I thank you for the opportunity to speak to Bill 77, the proposed legislation for developmental services.

It's well recognized within the developmental services sector that there's a need to change the current legislation to reflect the government's wonderful decision to close institutions and to modernize the legislation. The creation of this new legislation should be viewed as an opportunity to support people with intellectual disabilities to exercise their rights to become contributing citizens of this province. However, to accomplish this, I do believe that there are significant changes that need to be made to the bill to ensure inclusive communities.

Community Living Chatham-Kent provides many services and supports for people. Our vision is "Discovering Dreams ... Connecting Lives." In order to discover someone's dreams and what they want to do with their life, you need to plan with the person and you need to plan with those people who are significant in their life.

The legislation, as it is written, provides no opportunity for planning. It speaks to an application centre that will conduct an assessment, determine eligibility, assign a dollar amount and put people on a waiting list.

What if all they needed was help to get set up in an apartment? Our current local mechanisms in Chatham-Kent would address that immediately. The person would not have to go to an application centre, perhaps located in another town, for that support, and by being flexible with our resources for a short period of time, agencies would address the situation. Further, when people and families find themselves in crisis situations, they require support in a timely fashion, not waiting for an appointment with an application centre.

So I address two issues here: the lack of a planning process, and the need to consider a standardized application process at a local level, rather than another layer of bureaucracy called application centres.

The issues people face in our community are not in application difficulties, but in a lack of resources.

Currently, our agency starts working with young adults at age 16. We provide summer employment and assist with co-op placements while they are in school. These activities are not funded by the Ministry of Community and Social Services. We do this because it's important for 16-year-olds to be able to transition into their adult life. When these young adults graduate from high school, they're already involved with an agency for support.

However, as the new legislation reads, these young adults will have to cease being involved with the agency at age 18 and apply to an application centre to see if they are eligible. All this, when the educational facilities have already assessed these young adults, deemed them eligible for support and started a transition plan with the agency. While the person waits for application and

another assessment completion, not only will the momentum of the transition plan be interrupted to the detriment of the person and their family, but it's also double-assessing by two ministries.

The same holds true for transitioning for respite services. These are services that families desperately need and utilize in order to continue to have their sons and daughters reside at home with them. Right now, it is a seamless transition. Our agency provides child and adult respite services, and at age 18 the young adult just transfers into the adult system. Now they'll have to go to an application centre and reapply for a service they've had since they were one year of age. I think we have to look at this: Do families and these individuals cease to need that service just because they've turned 18?

Again, this brings us back to acknowledging and working with local access processes that have this planning process in place.

Our community is also very concerned that a waiting list provision is being legislated. That presumes that there will always be long waiting lists and that people will still not get the services or supports they require.

The legislation should reflect the government's willingness to work together with individuals, families, communities and service providers to provide supports to promote citizenship.

The other issues that we see include the need for a preamble to outline the purpose of this legislation and the expected social policy outcomes. There is no appeal procedure for decisions about termination of support, and there are different accountability measures for agencies versus direct funding models, and I believe very strongly that there should be accountability for every service that's provided to people, including those direct funding models.

Finally, this legislation does not afford dignity and respect for vulnerable citizens of our province. There is no presumption of capacity to make decisions on their own, there is no recognition that community development funding is required to connect people in a meaningful way with their communities, and there is no mechanism where the voice of people can be heard to either appeal decisions or decide what their lives will look like.

1030

Perhaps the most demeaning piece of this legislation is that an inspector may walk into their homes without their permission. Group living should not be identified as beds and spaces; it should be recognized as people's homes, and people who reside there should have the right to reside with the same right to privacy as any other citizen of this province. Anything less reverts to institutional living.

Finally, the lives of hundreds of people were disrupted in 2007 with strikes. They had picketers and disturbances on the front lawns of their homes. As innocent parties, they were forced to endure a lack of privacy and of the right to lead peaceful lives. New legislation provides this province with a golden opportunity to identify the de-

velopmental services sector as a no-right-to-strike sector so this never occurs with those people again.

To be true citizens of Ontario, people who have disabilities require individualized lifelong supports that are flexible and respond to life changes. Legislation that is passed in Ontario regarding those supports and services should reflect that.

I thank you for this opportunity to speak with you. I have also been advised to offer the expertise of the provincial executive directors in designing the regulations that will accompany this legislation. I will leave a copy of this document with you as well as the executive summary of Bill 77 prepared by Community Living Ontario. Thank you very much.

The Vice-Chair (Mr. Vic Dhillon): Thank you. You have about three minutes each. We'll start with the official opposition.

Ms. Sylvia Jones: Thank you.

Ms. Lu-Ann Cowell: You're welcome.

Ms. Sylvia Jones: Excellent presentation. You covered off many of the issues that we've already been hearing in the last couple of days. The no-strike provision, making it a no-strike sector: Is there a way to meet that halfway in terms of no striking at the homes?

Ms. Lu-Ann Cowell: Absolutely. Our goal is never to see people go through that again. It was very disruptive to their lives. They were frightened by the people on their lawns. They were frightened by the disturbances. They felt like they were living in almost a jail-like setting because they couldn't go out, all those kinds of things. If there's any way we can prevent their homes being picketed, we would welcome that.

Ms. Sylvia Jones: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Mr. Ramal?

Mr. Khalil Ramal: Thank you very much for your presentation. You mentioned many different elements. I want to focus on three things you talked about: the application centres, inspection and the preamble. On the application centres, first I want to congratulate you in terms of being able to accommodate all the people with disabilities quickly to receive service. But what about other locations that do not have this ability? How can we create some kind of standard?

Ms. Lu-Ann Cowell: I think that's what I spoke to. If we had a standardized application process that was coordinated in each community that families could access, that would eliminate the need for an application centre.

Mr. Khalil Ramal: This is what you mentioned. There's another name for the application centre; we can call it a coordination centre or whatever you want to call it—

Ms. Lu-Ann Cowell: But there's a major difference here. We do this as part of our job. This is not another bureaucracy. The agencies in our community come together voluntarily and assist people with getting them the services and supports they require. Certainly there's a waiting list for some services, like 24-hour residential. The issue isn't in the application; the issue is in the lack of resources.

Mr. Khalil Ramal: Another question is about the preamble. You don't think defining developmental disability and eligibility, being able to receive service, creating the application centre and providing funding directly will be part of citizenship and inclusion?

Ms. Lu-Ann Cowell: No. No, I think we need to be very clear in this, that we identify that people who have intellectual disabilities have the same rights and ability to access their communities as any other person. I bring to your attention the fact that—

Mr. Khalil Ramal: This is embodied in the bill. When you go through the bill, you can see it. Obviously, when we mention all these elements—

Ms. Lu-Ann Cowell: No, there's no mention of community development in the bill. It's a very important function of people to become contributing members of society. In our organization, our community development person made contact with the local Kiwanis Club. We now have a group of people with intellectual disabilities who are chartered Kiwanis members. They have their own club. They volunteer in the community, they give back, they raise money and donate it to charity and they are being mentored by the elite of Chatham-Kent society. That is inclusion, and that's being a citizen of your community.

Mr. Khalil Ramal: So when I give you the right to live on your own and get support and get service—

Ms. Lu-Ann Cowell: Absolutely.

Mr. Khalil Ramal: And that's what the bill's all about: to give families the choice and give people with a disability the choice to seek service and—

Ms. Lu-Ann Cowell: I don't see a problem with people having choice; I see a problem with people not being able to get the resources they require and thinking that an application centre is going to get that for them.

Applause.

The Vice-Chair (Mr. Vic Dhillon): Just to interrupt, I'd ask people in the audience to refrain from any applause or any comments, please; it's a big distraction.

Mr. Ramal, you have two more minutes.

Mr. Khalil Ramal: And how can we ensure safety and transparency without an inspection? As we know, head offices—people are subject to inspections in order to make sure the residents or the people who are seeking support and service are being protected and not being abused.

Ms. Lu-Ann Cowell: I think there are several things that you do here. I can only speak for my agency, but we do have a multitude of policies and procedures; we have zero tolerance for abuse. Does that protect people 100%—

Mr. Khalil Ramal: That's you, though. What about the others? How can we make sure as a government, as parents—

Ms. Lu-Ann Cowell: But the government already does that. We have to have certain policies and procedures in place in order to operate, and that—

Mr. Khalil Ramal: But you mentioned a few minutes ago that policies do not protect people. You have to have some inspections, to come without any notice—

Ms. Lu-Ann Cowell: And that's the same thing with children who are abused or the elderly who are abused—and that would be the legal system. If you are that concerned that someone is being hurt in a residential location, then you would absolutely get a warrant to come in and check that out, and you would do that in anybody's house or in a nursing home.

Mr. Khalil Ramal: What's the difference between anybody's house and an organization like Community Living—

Ms. Lu-Ann Cowell: I think what we've lost perspective on is that group living is not a group home; it's that person's home, and they have certain rights—

Mr. Khalil Ramal: But they're administrated by a business—that's the label. Therefore—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. Thank you for your presentation.

PEOPLE FIRST TILLSONBURG

The Vice-Chair (Mr. Vic Dhillon): Next, we have People First Tillsonburg.

Welcome to the committee. Please state your names for the record. You have 15 minutes for your presentation.

Mr. Michael Kadey: Hello. My name is Michael Kadey. I'm speaking on behalf of People First Tillsonburg.

I have to discuss the rights that were lost to us last year due to the strike: the right to work and two weeks' pay, the right to go to friends and have meetings, the right to enjoy our homes and independence, and the right to have a voice to be heard.

1040

Staff behaviour to us was not right. They should act like adults and set an example of their work. It was not right for a health service vehicle to be used to keep people awake with lights flashing and sirens going. People in our homes did not know what was going on. They did not understand why their staff was in front of their homes carrying signs, yelling and blowing horns. We shouldn't feel threatened in our homes.

Relief workers were good, but it took two hours for them to get into the homes. They should be able to get into the homes sooner. What would the staff do if roles were reversed?

People First Tillsonburg feels that the whole impact of a strike should be changed. Only strike at offices, not at homes, or don't strike at all. Get funding ahead of time, rather than strike. We can't strike. Why should staff strike?

People First Tillsonburg feels that the transfer from school to adult should be smooth. A person should not have to reapply for services, and the ministry should update our information regularly as our disabilities do not leave us.

Every prescription that a doctor writes for us should be paid through ODSP.

We need more jobs for people with disabilities so they can live with dignity, cost of living, and have a place of their own. The school should have a program that will train people to work. The government should allow people to learn more skills.

We feel there should be an application centre so people will know where they can get supports and services so they can live a better life. Funding for one person is a good thing, but we have some questions. How does someone living in a rural area get there? Can an application centre be placed in rural areas also? The application centre should be accessible to those who can't drive. Could there be an online version? We agree that inspectors should go into homes in case something is wrong. Some people could be mistreated.

Thank you for allowing People First Tillsonburg to speak.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We'll begin with the government side, about five minutes each.

Mr. Khalil Ramal: Thank you very much for your presentation. I want to congratulate you on your presentation. You outlined and explained the details of the bill very well. That's why we want to have a notice of inspections, in order to protect the residents. You probably heard many different organizations that came before you and spoke against it. What do you have to say to them, as residents, the people who live in homes managed by certain organizations?

Ms. Della Derrough: We feel that there should be an inspector into the home—

The Vice-Chair (Mr. Vic Dhillon): If I could just interrupt, can I get your name for Hansard?

Ms. Della Derrough: I'm Della Derrough of Tillsonburg. I feel that we should have inspectors to go in the homes because there has been a lot of abuse in the years, and I feel that the inspectors should be allowed to go into the homes to make sure they're doing their job and to make sure they're not abusing the people who live there in their homes.

Mr. Khalil Ramal: Do you feel comfortable if you believe that people are going to come any time without any notice to protect you?

Ms. Della Derrough: Yes.

Mr. Khalil Ramal: So you think these are good things to be in place.

Ms. Della Derrough: Yes, I think it's good for people who live in the home to feel that they should be protected, be safe.

Mr. Khalil Ramal: So you don't feel that violates your privacy—

Ms. Della Derrough: Pardon?

Mr. Khalil Ramal: —doing things like an inspection violates your privacy or protections?

Ms. Della Derrough: I live on my own, but I feel that people who are living in the home now should be protected because something could happen or they could get sued, too.

Mr. Khalil Ramal: And you think the application centre will help many others to be assessed quickly?

Ms. Della Derrough: Yes, I think it would be good for the application centre because a lot of people don't drive, and we think it's good for the people who are coming out of the school system so they don't have to fill out an application—just do one application so that they can get the services.

Mr. Khalil Ramal: Thank you.

Mrs. Maria Van Bommel: Thank you for coming in. I really like your idea of the online application, especially in rural areas, and my riding is certainly very rural. Access through the Internet and through a computer is very good.

Ms. Della Derrough: It would be good if we got on the Internet.

Mrs. Maria Van Bommel: But sometimes, I know myself when I do applications, I have questions. How would you suggest—one of the things about going to an application centre is there is someone there to help you. If we do it online, how can we help if you have questions about the application?

Ms. Della Derrough: Do you mean if somebody can't talk—

Mrs. Maria Van Bommel: Yes, or if they don't understand the question on the application. Do you think they need to provide some help?

Ms. Della Derrough: They should have somebody there to provide service, then, so they can know what they're signing.

Mrs. Maria Van Bommel: Thank you. Ms. Della Derrough: You're welcome.

Mrs. Christine Elliott: Thank you very much for coming this morning. You have excellent topics. I, too, like the idea of the online application. I think it's great for rural, remote areas and for people who may have some mobility problems as well. I think that's an excellent suggestion that we haven't heard yet, so I really like that.

I think with the other aspect that you mentioned, with respect to the difficulties in transitioning from teenagers into adulthood and avoiding double assessments, we really need to take a another look at it to streamline that process to make sure it's seamless for people as they become adults.

The other issue, with respect to the no-strike zone, picketing and so on: We take that really seriously. We recognize that it's people's homes that are involved and people need to feel safe and comfortable in their homes. As a committee, we should really take a look at that and see how that can be worked out so that people aren't disrupted and don't feel uncertain about where they're living; so that they have full rights, as everybody does, to privacy in their own homes.

Some of the other items that you've mentioned I think are also excellent ideas, although it's not going to be dealt with directly in this legislation. Your concern around ODSP and earning a living wage and being able to work and supplementing is something that I would

urge the government to take another look at. We would certainly support that, because I think that's probably the next step in terms of achieving inclusion. This is a good starting point, but there's certainly lots more to be done, and I just want you to know that we recognize that and will have that in our minds as we go forward as well.

Ms. Della Derrough: Thank you very much.

Mr. Dave Levac: Mr. Chairman, we're hearing some feedback. So for the committee, when the microphones are on and your BlackBerries or any other electronic equipment are by the microphones, even though they're not active, if they're receiving e-mail, they buzz, the way we've been hearing it. So that's just a point of order for us with our BlackBerries.

The Vice-Chair (Mr. Vic Dhillon): Good point of order, and it was my BlackBerry.

Mr. Dave Levac: Was it yours? Mr. Chairman, I apologize for admonishing you. Forget I said that. Take it out of Hansard.

The Vice-Chair (Mr. Vic Dhillon): Thank you. 1050

COMMUNITY LIVING ST. MARYS AND AREA

The Vice-Chair (Mr. Vic Dhillon): Next, we have Community Living St. Marys and Area.

Good morning, and welcome to the committee.

Ms. Brenda Mitchell: Thank you.

The Vice-Chair (Mr. Vic Dhillon): If I could have the presenters state their names for Hansard, that would be very nice. You have 15 minutes, and you can start right now.

Ms. Brenda Mitchell: Thank you. Good morning. My name is Brenda Mitchell, and with me are Joseph Lambert and Marg McLean. Joe and I are board members of Community Living St. Marys and Area, and Marg is the executive director. Joe is also vice-president of People First St. Marys/Stratford and a former People First of Ontario board member.

It is an honour to be before you today to tell you about our community, the association we represent and our thoughts on citizenship, supports for people labelled with an intellectual disability in Ontario, and the proposed legislation Bill 77.

St. Marys is a small town of 6,300 in southwestern Ontario and is located between Stratford and London. St. Marys is fondly referred to as the "Stonetown" because of its limestone buildings, huge swimming quarry, and St. Marys Cement. The culture of our community is one of welcoming and including residents and visitors alike. We take our motto, "The Town Worth Living In," very seriously.

Community Living St. Marys and Area, like most associations, was started by families in the 1950s wanting to secure a better life for their sons and daughters. Incorporated in 1962, our association has grown and changed to better serve our community. Approximately 50 people labelled with an intellectual disability and their families

who live in St. Marys and several neighbouring communities use our services. From 1986, our association moved from congregated, segregated services to individualized supports. Since 1990, the association's two main service areas are planning and facilitation service and support service.

Citizenship, human rights and the work of our association have been tied closely through the years. Our history is rich with stories of people moving home from institutions and participating in and contributing to our community. We learned a lot about listening to people, building trust over time, introducing life in community to people who have been excluded, and that relationships are at the heart of what makes good lives. We understand that the work we do locally is part of a larger human rights movement. Our association has supported People First locally and provincially for more than 25 years.

Community development and networking has been a priority for Community Living St. Marys for many years. It is reflected in our agency mission and also in our principles. Over the years, this has translated into participating in and initiating community groups aimed at making life better for all citizens of our community. Some examples of this are developing co-op housing, starting a mobility service, creating literacy services and starting a generic agency to assist people with employment barriers. These initiatives were innovative, only successful through partnership created in response to individual situations, and involved different levels of organizational risk-taking.

If we understand that quality is about having a good place to live, enough money, doing work that is important, having friends and family who care, having opportunities to learn and being valued and respected in the community, then we must understand that this type of investment in our community is really an investment in ourselves and our quality of life. These community initiatives could be seen as safeguards.

I'd like to tell you a little more about person-directed planning and facilitation. Planning and facilitation is an ongoing process that supports people to think about the future and facilitates real change to occur. It is particularly useful in supporting vulnerable people to speak up for themselves, make choices and discover their own unique gifts and dreams. The process supports the person and their family by providing information and creative ideas and connecting to community resources and networks. In our association, everything starts with the person. Planning and facilitation helps determine what support services the person wants and needs.

Nathan's story is a good one to share. He is a young man who ended up in a small rural hospital for three months while service providers in our county struggled to find ways to meet his needs. He had been removed from the group home he had been living in due to his "challenging and destructive behaviours." An intensive behaviour management home was recommended for Nathan.

Fortunately, a planning facilitator began working with him. Within a few weeks, an alternative plan was developed. A family with a granny flat attached to their home welcomed Nathan to move in. With support from his neighbours and some support workers, Nathan successfully lived in his home for several years. He now lives in a separate apartment on the farm of one of his original workers. He is very involved with his community and has spent many hours volunteering with the local library, his church and the minor baseball association. He has many friends and his once-distant family relationships are stronger than ever. Nathan lives a good life, one that is built in community. Effective planning and facilitation opened possibilities for Nathan that others could not see.

We are sharing some of our association's story and the stories of people who use our service because we believe it is very relevant to the discussion of Bill 77. While we believe that there are some very important components of the proposed legislation, we also believe that Bill 77 misses many opportunities to do more to enhance and support citizenship of people who have been marginalized for years.

In your handout, we have listed some discussion points and recommendations. I'm not going to read through them all. I will read the recommendations and the discussion points which we consider need reading.

Recommendation 1: Change the legislation name to reflect the anticipated outcome: a life in community.

Recommendation 2: Write a preamble with stated vision, values and principles.

Person-directed planning and facilitation is missing from the proposed legislation. We believe that this is a critical component of an effective, transformed developmental service system for Ontario. Based on our 25-year history of planning with people, we know that effective person-directed planning and facilitation, grounded in the values of citizenship, make a tremendous difference in the lives people lead. In the absence of effective, person-directed planning, it is easy to simply slot people into service or have them sit for years on waiting lists.

Planning and facilitation looks at community resources and solutions as the first place to start and is therefore not dependent on system services or funding. The quality of people's lives can become better right away by having someone to help set directions, think about possibilities and reach out to others. It works directly with people and their families on an individualized path and is committed to implementing goals. It works to empower people, build skills and share creative information so that people are less reliant on services in the future. Another way it strengthens people is by assisting to build social networks with family, friends and neighbours.

There is an upfront cost to planning and facilitation, but the savings in actual service costs far exceed the initial investment. We believe that person-directed planning must be available to all people deemed eligible.

1100

Independent planning and facilitation is when the service is provided outside of the existing service system. Growing research shows that having this option increases

the likelihood that people and families will develop situations to live and work in and relationships with others that are part of their community, as opposed to a placement in a service or program.

Therefore, recommendation 3: that all eligible persons will be entitled to person-directed planning and facilitation.

Bill 77 does not provide for community development. Based on our long history of community involvement, we know that it takes intentional action to create a community that values the contributions of all citizens. Fostering relationships and community partnerships, supporting People First, and creating new and innovative responses to shared issues is dependent on people, time and energy. Investing in communities and their citizens recognizes the significant contributions they make and leads the way for a truly transformed developmental service system in Ontario.

Recommendation 4: Fund innovative community development initiatives that will enhance the citizenship of people labelled with an intellectual disability. Provide ongoing funding for People First of Ontario.

Recommendation 5: Recognize the legal capacity of people who have been labelled with an intellectual disability and provide for supported decision-making.

Bill 77 suggests that waiting lists are not only acceptable but inevitable. Waiting lists for service are not acceptable. Waiting for personal crisis and then to be made a "priority" for the system is very disturbing and can lead to feelings of hopelessness. People do not want to hear from some bureaucrat that their situation isn't bad enough. Often, planning and facilitation support is particularly helpful when people are experiencing a crossroads in their life. The quality of people's lives can become better right away by having someone to help set directions, think about possibilities and reach out to others. If person-directed planning and facilitation is an entitlement, then waiting lists will not be such an issue.

Recommendation 6: Remove the concept of waiting lists from Bill 77. Provide person-directed planning and facilitation to all eligible people.

Recommendation 7: Ensure easy access for all people applying for support by having local offices.

Recommendation 8: Monitoring and evaluation of the application centre needs to be completed by an outside third party on a regular basis.

Recommendation 9: The application process needs to build on assets, not deficits, of applicants.

Recommendation 10: Develop clear values and standards grounded in the principles of citizenship and hold people and agencies accountable to these.

Recommendation 11: Clarify the position on the home inspections and how personal information will be used.

In closing, we congratulate the government on their reconfirmed commitment to the closure of institutions. We would like to thank you for providing the opportunity to speak on behalf of Community Living St. Marys and Area. We will be meeting with our local MPP, John

Wilkinson, later this summer. We are happy to answer any questions you might have.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. You've taken up your whole 15 minutes, so there will be no questions.

Ms. Brenda Mitchell: Read your handout.

Ms. Sylvia Jones: It was excellent.

ENSEMBLE

The Vice-Chair (Mr. Vic Dhillon): The next presentation is from Ensemble.

Welcome to the committee. If you could state your names for Hansard, those who are presenting, and you have 15 minutes.

Ms. Lisa Raffoul: Thank you. I'm Lisa Raffoul. I am a parent. On my right, to your left, are Jackie Barraco and Jane Welsh. Ensemble is a parent-directed resource organization in Windsor-Essex county.

We want to start by first of all thanking you for taking the time to do these consultations and for inviting us to speak and share our thoughts. We will share our thoughts regarding Bill 77 from a parent's and a family's perspective. Being a resource for families in our community, we certainly have the opportunity to listen to, speak to and learn from a wide variety of families in Windsor-Essex county. To start, Jackie is going to share a few of her thoughts with you.

Ms. Jackie Barraco: Good morning. With new legislation, the perception is that families may possibly feel like their input is not wanted, that we would be placed on the outside instead of having a close working relationship with supporting/service provider organizations.

With regard to the random and unannounced inspections, I feel that the dignity of our sons and daughters would be intruded upon. For a stranger to show up at any time, unannounced, to inspect a residence where our sons and daughters are living is insulting and degrading. Although such a home may be operated and staffed by a service agency, these homes must be considered as the individuals' homes, and thus, with random inspections as described in the proposed legislation, these inspections do not respect the privacy of an individual's home. As a parent, I feel it is much more considerate and respectful for an organization and its staff to develop a relationship with the individual and/or their families so that trust is developed. After all, it is support staff who get to know our children—our adult sons and daughters—and it is important for them to feel trusted too. Effective conflict resolution is part of the growth process in relationships, and I feel that it is far more effective to work through concerns with the individual, the families and the support staff together.

A brief question would be, where would the money come from to support these inspections, or the inspectors? Will our families have to give up money yet again for another cause that may not be worthy?

Ms. Jane Welsh: As Lisa said, my name is Jane Welsh. My husband and I have three children, two of

whom have multiple disabilities. For ourselves, upon reading Bill 77—I see the benefits, and we hear from other families the benefits of having options. Every family is individual and needs the ability to make choices.

For our family, I have come to realize in a very short period of time that I need help, so I seek help through supporting agencies. I find I am tired already from raising my children and trying to maintain the family atmosphere. If I can dole out and get help from service agencies, I find that to be a great advantage.

I've created support circles for our children to help with the raising of the children and to help facilitate their needs. The agency can offer information that I need to make choices. They offer community supports. They offer actual social involvement for my children and less isolation.

I need well-trained support staff. The idea of having to go through all the work of hiring, questioning and checking out backgrounds is that much more added to my plate, which is already full. I don't have to worry about providing transportation to have social situations for my children; that's supplied.

I still have input into their daily lives. I think it's very important that the support structures for my children are created but that I'm still involved in their lives and my suggestions and needs are also met and very welcomed. We've created a true partnership that I believe is essential.

1110

I'm not convinced that the proposed act addresses the fact that funding for these services is not being met. The act states that there will still be wait-lists. This terrifies me. While people are on wait-lists, many things can happen to the structure: stress to all family members, including their disabled children; financial impact, present and future; emotional impact; marriage breakdowns; family separations; and fear for the future.

For me, and my belief for all families, is that the services that are provided are essential services; there shouldn't be a wait-list. I feel that if families have to get into the crisis mode, then there has already been that breakdown. I feel the bill should state that these services are essential for families and that there will not be a wait-list.

The bill also recommends getting creative with the dollars that we can get. Some of the suggestions are to pool our resources as families, but families already have enough to handle. In order to get a bit of relief, you're asking us to share responsibilities with other families. I have all I can handle, and for me to take on another individual for a weekend or for the week in order to give another family a break that they deserve—I have all I can handle. I can't take on any more responsibility. I think there needs to be enough money in the sector for each individual, and families can choose how they go about utilizing that. Our children have value to us, and we value the people and the lives that help support our children.

Whether the funding comes from an agency or direct funding, the money needs to be there to show respect to those people who do that supporting. Wage competition shouldn't be the issue when it comes to getting good, qualified support. The new bill should set a standard for adequate funding so that wages for our support people are equal regardless of whether families choose an agency for support or direct funding. For me, there shouldn't be that competition. If a family chooses direct funding, then there should be enough money to pay them equally as an agency can.

I have more concerns, but I want to leave time for Lisa. I'd like to take the opportunity to say thank you for listening and for welcoming the input of families.

Ms. Lisa Raffoul: Thanks, Jane.

As well as Jane and Jackie's comments, I'm sure you'll hear from a wide variety of individuals and families over the next few days.

One of the points is that we are all individuals. Everybody in a typical family lives their life according to the way they want to do it. Having sons and daughters with disabilities should be no different. We are pleased to see, families are happy to see, that there is choice in the proposed legislation, because with choice comes flexibility and opportunity.

However, I looked at a little bit of the introduction. It says, "The new act provides a new framework for the provision and the funding of services to, or for the benefit of, persons with developmental disabilities." We would much rather see that the new act will be responsive to individuals who have developmental disabilities because "responsive" means, and this kind of mirrors what the group before us said, that it responds to each individual. It is about planning for each individual according to the way they want to live their lives. By stating that it's for the benefit of people or for service for people, again, we can have people slotted into situations where it may not necessarily be their choice. So a service and support system that is responsive is much preferred.

Again, it's up to each individual choice. There are people who prefer the assistance of a supporting agency, and there's a handful of people who prefer direct funding. One of the things that families have told us is that they don't want to be left alone. Even if funding comes directly to them, the majority of funding is for supporting the lives of their sons and daughters. And for a family to become the HR person, the manager of supports, the administrative person, the accounting person—there's a lot of responsibility for families, and we certainly want to know that there are organizations out there to assist us and that we can turn to.

My son is 14 years old. Every couple of years, I have to go through—I self-administer his contracts now. I'm getting tired of being the be-all and end-all. So, as much as I appreciate that there is flexibility in our lives—but what we've learned by working in close partnership with organizations is that this is a constant evolution. Fifty years ago, we began in one direction, and as we learn and grow together, that's how things respond, that's how we

respond to one another. We know that a balance is needed, so we're pleased to see that there is choice, and we hope that there will always be that choice for families.

At the same time, in regard to community development, there's other legislation, the Accessibility for Ontarians with Disabilities Act, and if that's where the community development opportunities arise, I think it needs to work in conjunction. An individual can be given all kinds of funding, but if there is a community that is not responsive and supportive to them, I'm not so sure that their quality of life will be there.

Everybody is an individual, and I just want to be sure that as we develop the bill, we keep that in mind and that people are not left alone.

The Acting Chair (Mr. Yasir Naqvi): Thank you very much for your presentation. We have approximately a minute and 30 seconds for each side. Official opposition.

Mrs. Christine Elliott: Thank you very much for coming again to bring your valuable perspective as parents. You tell us what we really need to hear with respect to this bill. What I think I've heard, and I think the other committee members have as well, from parents, is that you appreciate the fact that there's choice, but it has to be real choice. If you're doing individual contracts, you want to make sure that those people who are working with you can be compensated to the same degree as people who are working in agencies. You want to make sure that it's a level playing field. And you need some help, both in terms of administering the plans yourselves and in terms of respite.

I certainly appreciate the stress that families are under. I wouldn't expect that there would be anything taken away or there would be any expectation that families who are already providing service to their own child would also be asked to do respite for other people's children, because we know that that's simply physically not possible. I would ask the government members to clarify that, but I wouldn't expect there would be an expectation of that.

Finally, I think we want to make sure that you know that we appreciate what you're saying, that we're hearing that, and we want to make sure that there is choice for everyone and that family members are assisted—

The Acting Chair (Mr. Yasir Naqvi): Thank you, Mrs. Elliott.

Mrs. Christine Elliott: Could I just ask one question? Some of the groups have commented about the necessity for planning groups to be involved with them. Would you find it helpful to have somebody to help you facilitate those contacts for your son's individual planning?

Ms. Lisa Raffoul: To have a person assist with planning?

Mrs. Christine Elliott: Yes.

Ms. Lisa Raffoul: Yes, as long as there's follow-up. In our community, there is planning, but families have said there's not necessarily follow-up—because every three months our lives change. So it's about relationships, and that's where the supporting organizations

come in, who are doing the ongoing. Again, it's questionable: Should it be independent planning or not? I think that responding to each individual, no matter who's doing that planning, is what's important—and follow-up.

The Acting Chair (Mr. Yasir Naqvi): Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for bringing a different perspective, as a family.

I want to ask you a question. This bill proposes the establishment of application centres. Do you think that application centres are a good idea to help you to assess your kids or other kids, or do you have no idea about this?

1120

Ms. Lisa Raffoul: Our thoughts on the application centre have been, where are the additional dollars coming from to fund these application centres? Not necessarily because an application goes in and you fill it out. There could be a panel or a body looking at the applications, and not necessarily is it an application centre that's necessary; there could be an application body, a decision-making committee. But to create a new structure, we've questioned where the funding comes from for that.

Mr. Khalil Ramal: A quick question: You raised the issue about inspections, especially without notice. We heard from People First in Toronto and here—as you know, People First are the people who live independently; they have some kind of disability. They showed some kind of comfort for the inspection without notice. So how would you respond to that?

Ms. Jackie Barraco: If an individual is living within a home, through an agency, they are accountable to the staff, to the families, to the organizations. But what about the private homes? Who are they accountable to?

Mr. Khalil Ramal: No. Private homes are not subject

Ms. Jackie Barraco: So then the inspectors, when they're coming into your home—that's a private home.

Mr. Khalil Ramal: No, no. I said that the bill does not propose to inspect private houses, only the group homes that belong to agencies and organizations, because they are considered a business. That's what happened.

Ms. Lisa Raffoul: I think why we don't necessarily find comfort in that is because, again, our lives are ongoing and we would much rather see the supporting staff, the supporting organizations, learn from families and individuals and be required to provide a quality of support. Jackie mentioned trust. Trust is key. I guess what Jackie was alluding to is that if there's direct funding, you could have anybody running the organization.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. Thank you for your presentation. The time is up.

Ms. Lisa Raffoul: Thank you.

LIFELONG CARE GIVERS SUPPORT GROUP OF SARNIA-LAMBTON

The Vice-Chair (Mr. Vic Dhillon): Next, we have Lifelong Care Givers Support Group of Sarnia-Lambton.

Mr. Dave Levac: Point of order, Mr. Chairman: It's obvious that there's a lot of work that has gone into the presentation of the visuals. I'm wondering if we can ask the organization if we can get them packaged into 8.5 by 11s and given to us so that we can preview them. Obviously there's a lot of writing in it that we won't be able to read while we're looking at them. So I would deeply appreciate it if we could get that turned into a package for us.

The Vice-Chair (Mr. Vic Dhillon): Would that be something that you guys could do for us?

Ms. Wilma Arthurs: Yes, we can.

Mr. Dave Levac: Thank you so much.

Ms. Wilma Arthurs: May I just say: These are the people we're talking about. These are our families, our children and their stories.

Mr. Dave Levac: That's precisely what the intent is. We're very supportive of it; thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you so much. Welcome to the committee. You have 15 minutes, and whoever is presenting, if they can state their name for the record. You may begin.

Mr. Tom Saul: Thank you, and good morning. My name is Tom Saul and I thank you for the opportunity to speak to the proposed legislation referred to as Bill 77. I am speaking on behalf of the Lifelong Care Givers Support Group of Sarnia-Lambton. This is a newly designed parent group that comes together to discuss issues of mutual concern. I am a parent, a volunteer member of Lambton County Developmental Services and a parent-advocate sitting on the developmental services planning committee of Sarnia–Lambton.

It has been said that a measure of a society can be taken in how its most vulnerable citizens are treated. This tenet holds true for people with intellectual disabilities. Many of our families will be profoundly affected by Bill 77. Therefore, we are pleased to have this opportunity to offer our comments.

My presentation contains a number of questions, which I do not expect you to answer today; however, I respectfully hope that you will honestly reflect on them in your deliberations.

We are encouraged by legislation that intends to make the system easier to navigate, brings needed services and supports closer to the people who need them and provides real choice and flexibility in the supports and services needed. While these are admirable goals, I would respectfully suggest to you that Bill 77, as it is written, will not attain these worthy objectives for the people of Lambton county. In many ways, in our opinion this is actually regressive legislation.

Our opinions are coming from a specific perspective. Let me reflect on involvement and commitment for a second. Take, for example, ham and eggs. The chicken is involved, but the pig is committed. The Legislature is involved in this bill, but parents are committed. At the end of the day, the politicians and the bureaucrats can go home and have their choice in the responsibilities that they will accept on their free time. As parents, we are

committed 24 hours a day, seven days a week and are profoundly affected by decisions that are made by people who are only involved. It is from this committed perspective that that I am addressing you today.

The institution of eight regional application centres is cause for great concern. As we understand it, the regional office will assume the responsibility for completing the application, doing the assessment, scoring the applications and allocating funds. This is a very closed process with no input outside the regional application centre. Where are the checks and balances in this system? Is there room for community input and collaboration?

In Sarnia-Lambton, we have a local access mechanism called Connecting Point, established in 2000. This local office assists parents in making applications for services they require and assists them with completing and gathering of information and assessments that are required. The information is then passed on to the coordinated access. The coordinated access is a team composed of representatives from all the local service providers who meet on a monthly basis. The group works together to review the applications and the available resources and creatively attempts to meet as many needs as possible. A brochure for that organization is attached to the handout.

The system is not perfect, as the demand for resources is greater than the supply of funds. However, it is a very effective process, largely due to the high level of cooperation and creativity that exists between the agencies.

To move the application centre from the county would be a regressive step. This would create additional hardships for parents, forcing them to travel and adding local applications to a much larger catchment area. If we think for a moment of the county as a pond, the applications are now becoming part of a lake as they are added to the regional office, presumably covering a much larger area. Funds are now allocated on a county basis. Will this now change to a regional basis? In the case of an application that is nearing the top of the priority list in the Lambton pond, how will the status change as a result of now being added to the lake created by the newly established regional office?

A common application form is a good idea if it is designed to be user-friendly. The application proposed is of considerable length, 24 pages to be exact, with an estimated completion time of seven to eight hours. This is not making it easier for parents, who are already stretched to the limit in many cases. Will parents be required to complete this application when many hours have already been invested in completing the application currently on file? Will staff be available to assist with this application process? Who will pay for and supervise this staff? Is this the most efficient use of limited resources?

The constructive alternative is to leave the Lambton system intact and use any new funds to create more service options rather than creating another layer of bureaucracy. As one parent commented to me, "If it's not broken, don't fix it." In fact, MCSS program supervisors have suggested that the Lambton model is an excellent

example of best practices and have suggested it to other communities. The local model allows allows parents to update their application frequently, in some cases monthly.

1130

As parents age and continue to care for adult children at home, the need and the pressure continue to grow. Committed parents who went against the philosophy of the day 30 and 40 years ago kept their children at home, rather than institutionalizing them. These parents are now being subjected to additional hardships, as community resources are not available to them. By being responsible parents and providing a home in the community, they have saved the province millions of dollars.

What do aging parents do in a time of crisis? Who will advocate for those who cannot speak for themselves when their parents are gone? Direct funding to parents by bypassing agencies is an option for some parents, particularly when they are young and healthy, but this option is not for everyone. Not all parents are created equal and have the skills to train, hire and supervise the staff they require. I have seen numerous examples where parents have been forced to hire anyone they can find, just to get some respite time. The issue of liability will continue to grow as developmentally challenged people are supervised by individuals without proper training and supervision themselves.

Direct funding for individuals does nothing to sustain agencies and is not enough to cover the true costs of providing quality care. Agencies provide an administrative structure, training for workers, buildings, insurance and utilities, not to mention accountability to MCSS. After the recent Auditor General's report, we know that accountability is an issue. We need to support a system built on co-operation and collaboration, with the best interest of our sons and daughters in mind, not a system built on competition. The cheapest product is not always the best option in the end.

The constructive option is to strengthen the agencies providing supports to people in need. Many agencies were created by parents who band together to create a viable system of programs for their sons and daughters. Agencies have the structure to hire, train and supervise staff while developing creative programs to meet individual needs.

We are seeing increasing creativity as agencies work together to provide options and creative program alternatives. One example is Community Living Sarnia-Lambton providing space for a residential program and staff being supplied by St. Francis Advocates, another agency. In fact, Sarnia-Lambton service providers have a long history of working creatively and collaboratively. It is feared that with the implementation of regional application centres, this will be lost.

The commitment and supervision of a local volunteer board of directors helps to ensure accountability and relevance of local agencies. A strong agency system is necessary to ensure long-term continuity of services.

As a volunteer board member for 24 years, I can attest to the growing pressure on the existing system. It is increasingly difficult to attract and maintain qualified staff to this sector while wages continue to fall behind other groups.

Please remember that families created most of these agencies and the agencies continue to be supported by family members. Private, for-profit companies will never be able to provide the committed supports that volunteer agencies continue to provide. Private companies are involved but not committed the way parents are.

In conclusion, I respectfully offer the following ideas for your consideration and action. You have the power to provide the input that is needed to make this legislation positive and meaningful.

- (1) Maintain our single point of access for Lambton county, so parents have local contact for service without having to travel.
 - (2) Recognize our local prioritized waiting lists.
- (3) Create a strong and viable agency system to ensure long-term continuity of quality service options, thus providing parents with program choices.
- (4) Allow a direct funding component for those who desire one, but one that does not erode the agency system.

You are involved in this process. We, as parents, are committed to our children and will have to live with the decisions that you make. I respectfully implore you to place yourselves in our positions, figuratively, as you deliberate on the future of our children and our families.

Thank you for your consideration and attention.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Applause.

The Vice-Chair (Mr. Vic Dhillon): Again, applause—I know these are emotional issues, but I would request that we refrain from applause or any other form of distraction. Thank you very much.

We'll begin with Mrs. Van Bommel. There's a little bit over a minute each.

Mrs. Maria Van Bommel: Thank you very much for the presentation. I want to thank my colleague for suggesting that we try to condense these somehow and get them to all the members of the committee.

Ms. Arthurs, would you explain to everyone about your "real people" campaign and what this is, because people in the audience can't see what we have access to here in front of us.

Ms. Wilma Arthurs: Quickly, for the "real people" campaign, we are taking pictures of families that have children with disabilities who are on the wait lists. This is a cross-section of people who are on wait lists for different services. We just want to show the government who we really are so that you don't just see it on paper. We want you to see our faces, who we are. The stories are included. We are continuing to take photographs right through into the middle of September and we hope to present all of those to the government in the fall.

Mrs. Maria Van Bommel: Thank you very much. It's beautiful; the photos are just beautiful.

Mr. Saul, you have recommendation (2), and that is to "Recognize our local prioritized waiting lists." Could you expand on that particular comment? When I met with your group, you talked about that, and I'd like the committee to hear further about that issue.

The Vice-Chair (Mr. Vic Dhillon): Very quickly, Mr. Saul.

Mr. Tom Saul: People in Lambton county have been placed on a prioritized waiting list, and over the course of time, as the waiting list progresses, people are getting closer and closer to services, because we're talking about a small countywide list. If that is expanded to a regional list, we're going to be adding other names, and it's going to become a larger pond—a lake was the analogy I used. Those applications will no longer be near the top; possibly, they could be set back years.

The Vice-Chair (Mr. Vic Dhillon): Thank you very

much. The opposition.

Ms. Sylvia Jones: Thank you. Your concerns about the application centres and what that's going to do for local existing processes is something that we're aware of as well, and we'll be watching it.

Mr. Tom Saul: Thank you.

Ms. Sylvia Jones: I commend you for the work you've done so far, and we also fully support what is happening at the community level, and we'll be making sure that Bill 77—whatever changes come forward are not going to erode those services in any way.

Mr. Tom Saul: Thank you. That's reassuring.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much for your presentation.

WOODVIEW MANOR

The Vice-Chair (Mr. Vic Dhillon): Next, we have Woodview Manor.

Mr. Paul Cano: Shall I distribute my presentation? Thank you very much for inviting us to present—

The Vice-Chair (Mr. Vic Dhillon): If I can just have your name for the record, and you may continue.

Mr. Paul Cano: Sure, yes. My name is Paul Cano. I'm a member of the parent council of Woodview Manor, a support agency for adults with autism spectrum disorder located in Hamilton.

Thank you for the opportunity to comment on the proposed legislation for services to persons with developmental disabilities. We strongly support the proposed functional definition of "developmental disability" contained in the draft legislation. Backed by the appropriate policy directives and funding, this will provide more equitable services for all individuals with development disabilities. We also support the direct funding of individuals to allow them to choose the most appropriate services for their needs.

1140

We are a group of parents of adult children with a diagnosis of autism spectrum disorder, or ASD. Our children range in age from 18 to 55. Most of them do not have intellectual impairment, but their adaptive functioning is significantly impaired.

ASD is a developmental disorder of the brain where the ability to communicate effectively and form appropriate social connections is impaired. Many individuals also have debilitating repetitive thoughts and actions. These deficits make the activities of daily living difficult and work almost impossible without specialized supports. It is a lifelong disability.

Our experience has been that during our children's school years, ASD was often not recognized by the school system as a disorder. We encountered some extraordinary teachers who did remarkable work despite the system in those days. Today, the needs of our children with autism spectrum disorder are becoming better understood. There are now services for preschool and school-aged children. Special programs for children with ASD are provided by most boards of education now. However, as our children move into adulthood, we are finding the same lack of understanding we struggled with when our children were young and the same lack of services and funding. There are very few services for adults with ASD, and those that do exist are inadequately funded.

Individuals with ASD can learn skills and coping strategies. We have seen remarkable progress and growth in individuals in our program who have been provided the right level of services. In a properly supportive environment, they can become much more independent with the activities of daily living, form strong social bonds with their peers and retain gainful employment. They do, however, require regular support to maintain this level of functioning throughout their lives. Individuals with ASD have difficulty in transferring learning from one context to another and coping with change.

We have found that continuing to live with aging parents without other supports is often not the right environment for that progress and growth. All too often, the outcome is social isolation and regression into repetitive thoughts and actions. These individuals who do not develop those vital skills of independence will, in the long term, require much higher levels of support from the community when their parents are no longer able to pro-

vide for them.

I'm here today representing a group of parents who have been fortunate that our adult children have found some level of support from Woodview Manor in Hamilton. Woodview Manor is a unique agency in Ontario that provides programs to enhance social and life skills and provides vocational and recreational support to individuals with ASD. The funding for the manor is focused on its program for young adults to prepare them for independent living. It does this very well. However, it receives no funding for the lifelong support that these individuals require to live a meaningful life. Today, the manor is stretched to its capacity and even beyond, while the demands on its services are increasing. The manor staff has the experience and the skill to provide the services that are required but are severely constrained by the current lack of funding. Other communities do not receive even this level of support that is provided in Hamilton.

Our hope for the proposed legislation is to overcome a current barrier to greater recognition and services for adults with ASD. The current legislation defines "developmental disability" in terms of intellectual impairment, but we note that the proposed legislation has a definition of "developmental delay" that is based on functional ability. We strongly support this more modern and useful definition. This is particularly important as the manor tries to support these adults long-term—they are denied funding because they have normal or aboveaverage IQs. We have seen that the definition of "disability" currently requires limitations in cognitive functioning. "Cognitive functioning," in the legislation, is defined as the ability to "reason, organize, plan, make judgments and identify consequences." We would like confirmation of our understanding that an individual with ASD who has these cognitive impairments but has a normal or above-average IQ would still be considered to have a developmental disability.

With respect to the policy directives, we hope that as the policy directives are developed they build on these definitions and set out criteria and priorities that do not discriminate against individuals with ASD with a normal or above-average IQ. We hope to have the ability to provide input to the development of these policy directives, as we have graciously been given the input to speak today.

We note with interest that the direct funding of individuals is permitted by the act. We strongly endorse this approach. Allowing individuals to select the services and service providers of their choice can lead to more efficient delivery of services. Individuals and their caregivers know best what services they need to support their activities of daily living and social development. For some that would be a recreational program, while for others it may be a job coach to allow them to retain meaningful employment.

For our adult children, we are not asking for a service that costs a king's ransom. We are looking for a Goldilocks solution: not too hot, not too cold—just right; not too much support, not too little—just right. Too much support for our adult children and they will not develop the self-reliance to live independently. Too little support and they will regress, lead unfulfilled lives and in the long term require expensive care. With the right level and type of support, they can live independent lives, work and contribute to our community.

In summary, we strongly support the new legislation and encourage you to pass it into law as quickly as possible. We look forward to policy directives and infrastructure being developed that will allow the promise of the legislation to be implemented on the ground. We trust in the government to adequately fund the programs so that adults with ASD can lead independent, productive lives and make their own contribution to their communities.

Briefly, to give you the personal note, I volunteer on the Woodview Manor parent council, as I have a 21-yearold son with ASD who has been well served by the manor. Chris lived there for two and a half years after high school and learned valuable independent skills to the point where he now lives on his own in an apartment with another Woodview Manor client, and he attends university part-time.

However, this is not yet a happily-ever-after story. He is still quite deficient in job skills. He has never successfully found and kept a job. It is our hope, as parents, that in the coming years this will happen and he will not need to rely on ODSP. However, it won't be without the support of an agency familiar with his needs that he will be able to attain this goal of finding meaningful work. Beyond that, given that he, as an ASD individual, will have continuing difficulties comprehending social behaviours, communicating and understanding the motives of others, he will get and lose these jobs because of these problems. As well, he will be at higher risk than the general population of mental health problems. His parents, as we increasingly age, will require the help of an agency, such as Woodview Manor, funded through Bill 77 to support us as we support our son. Thank you very much.

The Vice-Chair (Mr. Vic Dhillon): Thank you. We'll begin with the official opposition—about two and a half minutes each. Ms. Elliott.

Mrs. Christine Elliott: Thank you very much, Mr. Cano, for bringing the perspective of adults with autism spectrum disorder into this whole discussion. I think that's an important perspective. The fact that you're talking about functional ability rather than an IQ assessment—I think that's very relevant and very important. I agree with you completely on that.

Your other comments with respect to the need for vocational supports and opportunities: I think that's the next piece that we need to take a look at. It's part of this, not the central purpose of it, but I agree with you that there's a great need for that.

You mentioned in your brief with respect to what other services Woodview Manor could provide if they had additional funding. Could you expand a little on that for us, please?

Mr. Paul Cano: Woodview Manor currently is supported as a transition organization; that is, to take young adults with ASD, give them the independence skills, and then in a perfect world they would go into the community to find jobs, live on their own and live happily ever after. It's those individuals who go out and then things fall apart and end up re-entering the transition organization. So it's supporting them in jobs, like job coaches, to allow them to continue to keep those jobs, and when they encounter difficulty, they have a resource to turn to so they don't just get fired for their inappropriate social behaviour. It's to have them navigate and help with crises such as the mental health problems they are subject to. So it's those adults in their 30s and 40s who end up coming back, looking for help and support because things have fallen apart, and who end up needing the residential side again. I appreciate that, if I've got it right, this is addressing a lot of the residential needs of our disabled individuals. That's not what the bill is all about, but it's a large part, correct?

Mrs. Christine Elliott: Partly, but it's really the whole person. I think that's what we're trying to get at, the needs of the person over time, and I think what you're talking about is an ongoing relationship that people can continue to have contact with.

Mr. Paul Cano: Yes.

Mrs. Christine Elliott: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation, especially when you have tremendous experience, being a father and also a volunteer with an organization that supports people with disabilities. How do you see yourself being supported if this proposed bill passes, especially in terms of direct funding?

Mr. Paul Cano: Agencies, I think, could either do it as an agency directly funded by the ministry or as providing a fee-for-service thing for job coaching, for recreational services, for these kinds of independent services. I think our organization could function in either fashion, and I think it probably needs to have both. We've heard very eloquently the difficulties of just doing direct funding, because you need that infrastructure for training of support staff and the like. I think we've seen that in the home care sector, with CCACs bidding for services. Sorry; I'm getting into health care because that's my work life. The nursing agencies, now, that aren't directly funded but have to bid: We're finding nursing agencies that aren't as supportive of professional development and that kind of stuff if they're all just bidding on a fee-for-service thing for one particular service. I hope I'm explaining that properly.

Mr. Khalil Ramal: And you know that we propose in this bill to establish application centres, to have the one standard across the province of Ontario. From your own experience, do you think it's a good idea or, as somebody

mentioned, it's not a good idea?

Mr. Paul Cano: In our areas, I think that would be the Contact agencies; have I got that correct? Hamilton, Niagara and Brantford have something called Contact. That's how we're envisaging that it will probably happen. We figure that's reasonable. We're concerned about the development of the policy directives that they file, that they are managing the waiting lists and that there are clear policy directives in which the consumers have great input to deal with how they are going to administer this.

The Vice-Chair (Mr. Vic Dhillon): Thank you very

much.

The next presenter is Mr. John Joyce. Is Mr. Joyce here? It doesn't look like Mr. Joyce is present, so we'll recess a few minutes early and we'll convene back in this room at 1 p.m.

The committee recessed from 1149 to 1301.

SHARON AND STEVE SHARP

The Vice-Chair (Mr. Vic Dhillon): The committee is back in session. Our first presenter this afternoon is Ms. Sharon Sharp.

Good afternoon.

Ms. Sharon Sharp: Hello.

The Vice-Chair (Mr. Vic Dhillon): If I can have your names for the record, you may begin. You have 15 minutes.

Ms. Sharon Sharp: I'm Sharon Sharp, and my husband—

Mr. Steve Sharp: I'm Steve Sharp.

Ms. Sharon Sharp: We're going to take turns reading because both of us are nervous.

The Vice-Chair (Mr. Vic Dhillon): Take your time.

Ms. Sharon Sharp: We would like to acknowledge the Liberal government and the Minister and Ministry of Community and Social Services for pursuing public input in regard to Bill 77. As taxpayers, it's always a positive step when our government decides to listen directly to people involved. As parents, to share in this dialogue it also allows us to show you that we are committed in our role as parents of a family member with a developmental disability.

Our family members must live with this legislative act, follow the rules and regulations, and yet strive for the opportunity to enjoy a fully inclusive life as active citizens in our communities.

Perhaps you would like to take a moment to think of a person you know of good character. Reflect on the things that the person says and does, the personal characteristics that make him or her a role model. Chances are that high on the list of role-model qualities is the word "commitment," the unwavering dedication to being a good family member, a loyal friend, to doing his or her job at work and away from the employment site, to doing what's right, what's noble and decent. People with true commitment, like your role model, just seem to have their heads and hearts in the right place. They keep priorities straight, they focus on what's important, and they know inherently that what they believe must drive how they behave, and how they behave ultimately determines the character they possess, the reputation they enjoy, along with the legacy that they leave behind.

Abraham Lincoln had this to say about commitment: It's "what transforms a promise into reality. It is the words that speak boldly of your intentions and the actions which speak louder than the words." We come here today to share our commitment to offer a review and changes to Bill 77 for the benefit of children who live with different abilities; to share with you what is right, noble and decent; to do and keep our priorities straight; and to focus on what's important; and so that Bill 77 will be able to leave a legacy. We trust the committee members and our government will listen to our commitment as parents and families, understand our values of commitment and share in the legacy of this commitment for the future of all persons with a developmental disability by reviewing, amending and conciliating Bill 77.

There are several areas of our family life that we could share with you too numerous to mention. However, we will share that our son has chosen to be a teacher, a brother, an employer, an author, a social director and most of all just the amazing person that he has become.

Bill 77 will have an important impact on him, our family life and our future plans for a good life for our son when we are no longer here. As advocates, we have several concerns regarding Bill 77 and how it will affect our family member.

People with developmental disabilities need to be included in everything; it's their life. Services and programs do not make a life. Friends and family whom the person trusts need to assist the person to be heard. People with developmental disabilities and the people they do trust should decide where the supports should come from, who gives assistance and how the planning will take place. Supports, both paid and unpaid, help people reach their goals, explore their dreams and take risks of everyday living.

Our son has done this personal planning, and nothing was planned without his input. He followed the PATH planning process. We listened to him set out his goals and some far-reaching dreams that he has. We supported his successes in making a life plan following his choices. He has expanded a circle of friends and family to share his daily life with, and they will continue to help him grow. Now he needs some basic constant supports to maintain, enhance and continue his contributions to being included in his own community. Direct funding would do this, funding that would allow for consistent, independent planning and facilitation to allow him access to resources in our community. Families have asked for and find it most helpful to use direct funding options if there is sufficient planning, education and information to assist them. Bill 77 needs to have the structure in place to include person-directed planning, independent facilitation to community resources and funding dollars to back it up to show that this government is committed to standing behind people with different abilities and their families. This is essential for direct funding to be used effectively. This model does not necessarily need all the funding to go through agencies. Therefore, a more equitable balance of dollars would allow these same options to be supportive of families who have chosen direct funding.

Planning should be a responsibility of the individual with family and trusted people in their lives. This planning aspect should be independent facilitation of resources and planning supports provided by legislation of Bill 77. Each person and family is unique, and therefore each plan and funding outcome should also be unique, investing in people and families, not always only agencies and programs.

Agency services have been very helpful in the past—the true foundation of some supports for individuals and families for several years. However, now is the opportunity for them as well to change their way of thinking, become more community-creative and supportive of families' choices and think outside of the box for options. It's time to shift the movement for all developmental services up to the next level. Bill 77 could do this and lead the way to encompass all aspects of human rights and citizenship for people with developmental disabilities.

This legislation should recognize that a person born with a developmental disability is likely to have it their whole life. There's no cure. We know it and you know it, so the bill should not have to keep doing assessments for eligibility or a definition of what a disability is.

1310

Mr. Steve Sharp: Other definitions that concern us are the residential support services, caregiver respite services and host families. These do not seem to be happening in a reasonable pattern across the province. These definitions are very restrictive and do not allow the creative outcomes that individuals and families are striving to attain.

Likewise, supported independent living options need incentives and regulations for community choices and families to be creative with support by using direct funding. Lack of funding for this is also evident.

Eligibility and access: Eligibility is determined at age 18 for ODSP, which is your government process and therefore should be recognized and not in question again. This whole process happens over and over, and families are tired of having to prove their child has a disability. We have used our highly technological expertise to record our son's life progress; we do not wish to do it over and over again. We do not wish to share our entire family life with strangers, either.

Bill 77 does not provide for independent planning supports or facilitation of local community supports. There is no funding for implementing planning, support for individual self-determination or any framework wherein the family can be assisted. Again, legislation and funding to address this issue are missing.

Bill 77 provides that people must be assessed again, evaluated in every part of their life, and then you get to decide what they need and the funding they get. We like to look at our son as a whole person, not bits and pieces. We live an active and involved lifestyle that he participates in as well. We cannot stop each activity to decide what amount of dollars goes to make this happen or that happen. Our family life is ongoing, and we should not have to stop to analyze each piece of it or our son's. We need a simpler process that allows us to be treated fairly and that respects our family lifestyle. We don't particularly want to always deal with the regional office, because it expands the cost of everything we are required to

We do not need another profile of our son, to be serviced, slotted into a disability category, labelled and lumped with everyone else. We would like the application and your assessment method to look at what our son can do, what he can learn and things he has focused on for his goals. His positive abilities need to be encouraged by using supports that allow him to be an active citizen in his community. As such, we have always encouraged our children to be active citizens by discussing topics of interest that will impact our family life. Our family believes strongly in the opportunity to vote in elections and to discuss at length the political and governmental rulings in our province and country and how they affect us. Our family has tried to be responsible,

conscientious and creative by supporting him, his plan and his community involvement. With his opportunity to volunteer within his church and non-profit organizations, he has become a teacher, to teach others to show compassion, to learn patience and to develop social relationships by bringing other people together. Natural things happen when natural things are done.

We all know how important service clubs are to support our community resources. Our son was invited to join an Optimist Club and has been an active member for three years. He has participated in numerous fundraising events, has been sponsored to raise pledges for up to two or three walkathons each year and has been fortunate to meet several dignitaries at meetings and conferences. His presence and social skills have brought others to a new awareness of persons with different abilities. He is a valued member of the Optimist Club and offers reciprocal benefits to society and people who know him now.

Application centres will attempt to decide where people with developmental disabilities would go to find services and supports. How or why they could do this is beyond belief. People with developmental disabilities do not want someone who does not know them trying to decide what is best for them or telling them where to go. Therefore, self-directed planning, natural circles of support and separate, independent facilitators to get their own community supports are critical for success. This should be a number one priority after eligibility is decided.

There seems to be a heavy load for application centres to carry to determine who is eligible, to do an assessment, prioritize the list, to develop a service profile, show the way to find resources and service supports, advise the individual of availability of resources, keep track of all expenses and monitor the quality of this process. Boy, am I exhausted. We don't know how they do it.

This seems very much like a problem already, as well as a conflict of interest, to be unbiased in all these decisions. The role of application centres is gigantic and problematic at best. We have asked previously to contain our privacy and confidentiality in this funding process. Families requested a streamlined system for services. However, the key responsibility must be separated so individuals and families can see the transparency of roles. Families need to see a fair process in place.

Ms. Sharon Sharp: Bill 77 has been forged quickly, passed two readings and is being pushed through so fast that even with these summer hearings it is not adequate to reach the outpouring of families and their stories and input at this time of year. In the midst of our family's summer break, as well as each of you losing time at vacation, we must spend our valuable hours trying to play catch-up with this whole Bill 77.

Our son has lost time with us, our family has lost time together, while we researched and debated—

The Vice-Chair (Mr. Vic Dhillon): One minute left.

Ms. Sharon Sharp:—this bill and we have travelled at the expense of our time again today to be here. We do not resent the time spent while talking to you or learning

about our government, but we realized we had to hurry up and do it because it's important. However, the reality is that our son will spend more time sitting on another waiting list.

Bill 77 needs to establish local infrastructure supports and direct funding, including independent planning and community facilitation. A person-directed approach will benefit those individuals, be creative, community-based and cost-effective. Bill 77 should ensure that all supports are available to move with the person. If citizens wish to change their lives, they should be able to move with a fair and respectful process in place. Supports and funding should be flexible, to use as a choice with other supports, and be portable, to move to other communities when necessary.

The Chair (Mr. Vic Dhillon): Thank you for your presentation.

FAMILY ALLIANCE ONTARIO

The Chair (Mr. Vic Dhillon): The next group is Family Alliance Ontario.

Good afternoon.

Ms. Cathy Calligan: Good afternoon.

Ms. Janice Strickland: Good afternoon. My name is Janice Strickland.

Ms. Cathy Calligan: I'm Cathy Calligan. Ms. Carolyn Calligan: I'm Carolyn Calligan.

Ms. Janice Strickland: Cathy and I are both board members with Family Alliance Ontario. I'm from London, involved with London Family Network, and Cathy with Sarnia-Lambton Family Network.

Family Alliance Ontario has been fortunate to have members involved with the whole transformation process from the very beginning and has had board members on all the committees that have looked at all the different aspects of transformation. So we thank the government and the Ministry of Community and Social Services for giving us that opportunity to also have our input, a lot of which we've seen reflected in Bill 77. We would like to say that's been a positive part of our input.

I am a parent. I have two sons. My youngest son is 22. His name is Jordan and he would have the label of developmental disability. I think a lot of the things we want to say have been said already, but one thing I wanted to say is that the conversation has reminded me of his career through the school system. I had been very involved provincially with advocating for inclusion in the school system. I always hear a similar argument that you can have some inclusion, or the only other option is segregation. The infrastructure was never there to support inclusive education either.

1320

It sounds like some of the conversation today has been around a traditional service system, or you're on your own with direct funding. I know of families and schools that will say that inclusion doesn't work in schools. But that was also because there wasn't the infrastructure there, there weren't facilitators, there wasn't planning,

there wasn't training for teachers, there wasn't support for families. The same argument seems to be coming up today too. Direct funding is not going to work without the infrastructure of all the things people have talked about. Without the planning, without the facilitation, as well, it will fail.

The other presentations this morning also talked about the vast majority of families choosing agencies and traditional stuff. Clearly that's for the very same reasons: There's no infrastructure there for them to help them have a successful plan for their sons or daughters in the community. It will fail without that infrastructure and then we'll say, "Direct funding didn't work." It's really unfair to not give it the support that it needs to be a good option for families.

Family Alliance Ontario represents families around the province of Ontario. There are family networks in many communities. Our passion and our commitment is to building a world where people with developmental disabilities are recognized, welcomed and included as full citizens and vital members of their communities. We represent Ontarians who are our children, siblings, parents, friends, coworkers and neighbours. Their disability labels have been reason enough for them to be segregated, marginalized, isolated, ignored and largely excluded at times from everyday community life.

My own son has been fortunate to have some individualized funding, but mainly it was because he left the school system early because it was a real failure for him. He didn't get the opportunities for inclusion that we had advocated for. However, since he left school and he's had some of his own funding, his life and our family's life have improved. I don't know if it can improve more than 100%, but it probably has, because he's been able to choose lots of things that he wants to do in the community. He needs full support to do things, but he's volunteering and working right now. He's up at Camp Queen Elizabeth, which is through the Y, a regular camp, and he's on staff. He's been going up there for several years. But all of that has been because he's now had some direct funding.

Ms. Cathy Calligan: My daughter Carolyn, who is with us today, is now 30 years old. She has been out of school for nearly 10 years now. The only support that she receives is through special services at home. With that funding, we have been able to find her some volunteer positions in our community. She also participates at the Y in a water aerobics program three times a week. All this has been done with just a very small amount of money. The amount of money that she receives is very small. With even just a slight bit more funding, she would be able to do so much more. The possibilities are just endless.

I'm going to start making some comments on the bill. We don't intend to make a lot of recommendations, but we do intend to raise our concerns. Some of these you have already heard and some of them you may not have.

One of the first things that we noticed about this bill was the absence of a preamble. We feel that this would

be very important to include in this bill to provide direction. It would serve as a compass to show what your direction is, what you intend to do with this bill. We would like to see things included that would state the value and the dignity of the individual. We would like to see it reflect some of the values and principles that you have stated in the ministry document Opportunities and Action. We would like to see inclusion; we would like to recognize the ability of the individual to contribute to society. We would like to see all of this because it will help shift from traditional services that we are all familiar with and help open up new horizons for people. The services that we have in the province have worked well, and they will always work well for some people, but we need to start expanding on this. We need to give people more creative options to empower them, to become more useful members of society.

The language of the bill has been problematic. We have heard that Community Living Ontario suggests a change of title of the bill to "An Act to enhance the social inclusion of persons who have an intellectual disability." We endorse this; we think that this would be a great improvement.

The language used throughout Bill 77 lacks clarity; it leaves it wide open to interpretation. This, along with the absence of a preamble, just makes it very little more than a document to rewrite administrative functions. We would like to see words such as "services" and "programs" expanded to include the words "supports," "to support an individual in community."

We see that traditional services are well spelled out in this document; we would like to see language included to support new and creative options. Residential service is spelled out—group homes, in-home support—but it fails to include any options that families might come up with. For example, some families would like the opportunity to create a home where their sons or daughters live in a separate apartment, sort of a duplex arrangement or a granny suite, something like this, but there's no mention of anything like that in this bill. So we found this language to be very restrictive. It does not allow for new and creative options.

We very much like the idea of direct funding, but we found that the definition used in the bill is a bit restrictive. We would like to see it expanded to include two unique funding choices: the first choice, to purchase service and programs provided by agencies; and the second choice, to purchase supports outside an agency, to enable an individual to take part in community activities such as work, volunteerism, recreation and living in one's own home. Family Alliance Ontario has referred to this second option as "individualized funding."

Once this distinction is made, the appropriate language must be used to support this second option. This language needs to talk about supports rather than services, community rather than programs, and citizenship rather than day programs and residential services. The legislation needs to move away from creating silos in a person's life to think about the person as a whole being.

We don't silo our own lives into day activities, work, residential; why should we for our sons and daughters? They're a whole person.

Supports need to be more flexible and open-ended to encourage the seeking out of new and innovative ways of supporting individuals in a community. We would like to see the support recognized as portable so that it moves with the person if they should move to a different locality or if they should decide to change where they purchase service from.

We would like to see this funding annualized so that people can depend on this funding from one year to the next and not have to worry about services being cut.

We're afraid that without the appropriate language in this bill, it won't move our sons and daughters ahead to full citizenship and inclusion in the community. We think some work needs to be done there. And of course the rhetoric about policy change must be matched by funding support too.

1330

Ms. Janice Strickland: We'd like to address, as I already mentioned briefly, the infrastructure needed to make sure direct funding or individualized funding is successful. A lot of that has been talked about in some of the presentations this morning, though, so I don't think I need to say the same things that all of them have been saying.

Families and Family Alliance Ontario have been leaders in demonstrating the success of some of these processes for many, many years. They have been, I think, ahead of their time in seeking out different ways to plan and look for their family members to be out in the community showing that people with disabilities don't have to be spending their time isolated and doing things that they don't choose to do. Things like support circles that families and Family Alliance Ontario have been setting up for their families since they've been infants, and independent facilitation as well—we very strongly have been talking about the importance of that being separate from the traditional structure so that whether or not families want to choose something that's offered by an agency, they can still choose things that are available in the community. I don't know if this area has been addressed, or maybe it was by another presentation: There needs to be some kind of a process, whether it's through the application or the funding decision, where the parents have a place where they can have that decision reviewed. There's somewhat of a process for that with special services at home, but with the Passport funding, there was no process to review that. It's very frustrating to see that that's the final answer.

Ms. Cathy Calligan: I see we're running short of time.

I'm just going to sum up some of what we feel are our important issues. We would like to see you refer back to the document Opportunities and Action and refer back to the underlying principles that you outlined in that document: citizenship, fairness and equity, accessibility and portability, safety and security, accountability and sustainability.

Just a couple of points on sustainability: We know that government is always quick to argue that resources are limited. However, entrenching waiting lists is not an acceptable solution. The population is growing; medical technology has been wonderful in extending the lives of our sons and daughters, and now they are reaching adulthood in increasing numbers. The demand is there, the pressure is there, and the funding is not keeping pace.

Two things must happen to make the system sustainable. First of all, we have to encourage people to move into community. The current support systems, programs and services are expensive; they're costly. People tend to go to this type of support because they don't know that any other options exist. With proper planning, people can look into community, find community placements, find natural supports in the community, and that's going to relieve some pressure on the system.

The other thing that has to happen is that there has to be more funding.

The Vice-Chair (Mr. Vic Dhillon): One minute.

Ms. Cathy Calligan: Funding is important. Our sons and daughters are important. If something is important, you find money for it.

When this bill is ultimately passed, you people will move on to something else. Within a few months, you'll forget all about us. The bureaucrats in Toronto will create a system that's easy for them to follow, easy to work with, and they'll forget about us too. Agency people will work with the rules that you create, and they'll go home at night and put us out of mind for the rest of the day. We're the ones who have to live with it. We live with it every minute of every day—24/7. We really, really implore you to take a look at our presentation and take our recommendations and concerns into account. You can create the most wonderful piece of legislation in the world, but without the proper supports and funding, it's going to be pointless.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much for your presentation.

COMMUNITY LIVING ESSEX COUNTY

The Vice-Chair (Mr. Vic Dhillon): The next group is Community Living Essex County.

Go ahead. If you could state your name; you have 15 minutes. Thank you very much.

Ms. Nancy Wallace-Gero: Thank you. Good afternoon. I'm Nancy Wallace-Gero. I'm executive director at Community Living Essex County. I was to be joined by Debbie Rollier, who is our president of the board of directors; however, due to a family commitment, Debbie was unable to be here and sends her regrets. But I am representing both of us and in fact our entire organization in my presentation today.

I did want to share with you that Debbie is a lawyer. She's a parent. She is a member of the Community Living Ontario board of directors and is currently the president of Community Living Essex County.

I am the executive director at Community Living Essex County. I have worked in this field for almost 40 years. I have two family members who have a disability, so this is my life. This is a great passion and something that is very important to me.

I want to begin by thanking you for the opportunity to comment on Bill 77. It's a timely change for the developmental services sector. After years of outdated legislation focusing on institutional living, the intent of this legislation is a very welcome change.

I do want to tell you a little bit about Community Living Essex County. This is the southernmost community in Ontario, and in Canada, in fact, for those who

aren't familiar with the geography.

We were incorporated in 1961 and currently support approximately 600 people of all ages, children and adults, who have an intellectual disability. We also support their families. We have a full range of supported living options: day supports, employment supports, supported living, independent living, family supports, and we assist families with special services at home. We employ approximately 600 staff-200 full-time, 400 part-time—to provide services and supports across the county. We believe our employees are among some of the very best and most dedicated in the province of Ontario and that the work they do is critical to the wellbeing of the people we support and to their families. We are active members of Community Living Ontario and Ontario Agencies Supporting Individuals with Special Needs, or OASIS.

Our presentation today includes recommendations that are shared with our provincial organizations. Also, we have had to tailor our comments to respect your time, so I'm just going to emphasize five specific recommendations that we would like to make with respect to Bill 77. I'm not going to comment on the positive aspects—there are many—but I am going to share with you the things that we think need to be changed in order for it to be an effective piece of legislation that will do the job that I believe the province of Ontario wants to do.

One of the most significant changes in Bill 77 is the introduction of application centres. We are very concerned about the lack of detail that is provided about the role of the application centres. We are concerned that a lot of this will be in policy directives and regulations. We also see this as one blanket statement about the way things ought to be across the province. We in Windsor and Essex county have a long and demonstrated history of working collaboratively with other agencies and services and families in coordinating available resources for the benefit of people we support. We have an approach that has been in place for a number of years. We believe it's effective and it's cost-efficient, and we would like to see it continued. We believe this can be done respecting some of the qualifications that the ministry, the government, is trying to achieve with application centres.

We would like to see that linkages that exist currently are built upon rather than new structures set up. Mechanisms for providing direct funding to individuals and improving fairness and accountability will require some new elements, but we believe we can work together with our community partners to put that in place.

We would like to see the description not as "application centres," but rather "application process" and it having some determined requirements that we feel we can fulfill, either by our existing network or by adding to it

1340

We are also concerned about the powers of the application centres. We're concerned that they seem unending and, in fact, will take away from the planning and allocation of resources that exist currently. Right now it is the government's responsibility, through its ministry regional offices, to allocate resources. We believe that that should remain with government and that the role of an application process or an application centre should be around the identification and prioritization of needs in the community to ensure fair and equitable access to supports.

The next area I want to comment on is inspections and operations. We find that Bill 77 really is very intrusive towards the direct operation of supports within communities. We feel that it is extremely important that the rights of people be considered in any sort of requirement that the ministry expects to impose. One of the requirements in the bill is that the ministry will have the right to inspect or send an inspector into the property at any point in time. We believe that this does affect the rights of the people who live in these homes. We would recommend that that be changed to require that anybody who would enter the home would have a warrant and have reasonable grounds to do so. It just seems completely unfair that there would be any kind of unqualified right of a ministry official to enter the home of a citizen of Ontario. It doesn't exist in other jurisdictions and it shouldn't exist for adults who have an intellectual disability.

We also, in that same section, are very concerned about the ministry's ability to assign a manager or reassign responsibilities with respect to the organization to really take over the affairs and manage the affairs of the agency. Rather, we recommend that this be narrowed to those services that are on contract between the ministry and the agency, that those are the only affairs where the ministry really can be so intrusive. Of course, they have the right to set rules when they provide the funding, but they don't have the right to take over an entire organization that does much more than just deliver services to government and to the people based on contracts with government.

I'm going to skip over a little bit, because I do want to get to a very important issue, one that is not in any way addressed within Bill 77. There are many recent and past injustices in the lives of adults who have an intellectual disability, many of which have created disruptions, significant risks and sometimes serious harm to an alarmingly large number of people. While we know that typically people are protected by an inclusive life within their community, surrounded by people who know and

care about them, far too many people are victims of various forms of abuse and neglect. We would like to see some protections built into this act.

Many people we have supported over many years have told us that the single most important issue for them in their lives is to feel at peace in their own home, to feel protected from harm and to have a sense of safety and security that is within their personal control. At Community Living Essex County, we've developed significant policies, training programs and other vehicles in an effort to ensure that people supported have peace, protection and security, but sometimes there are still concerns that emerge, and extremely vulnerable people require protections. We are the one province in Canada that has no such protection for vulnerable people. We believe there needs to be something included in this act that speaks to that.

We recommend that Bill 77 address issues of protection by naming either an ombudsman or an adult advocate who would be available to adults who have no one to speak on their behalf and to ensure that a mechanism is put in place to report abuse and ensure that, where necessary, protections are put in place. This is an area that does require a lot of additional discussion and consultation. It was raised during the consultations around the transformation of the Developmental Services Act, and for some reason it was completely left out of this legislation.

One other area that concerns us is the development of regulations. There's a lot of room left for regulations to be developed that can in fact restrict the rights of people and the sorts of supports and services that we are moving towards in our communities. It's also our recommendation that the standing committee make clear its expectation that the public will be fully consulted on concepts and ideas related to the regulatory framework for the legislation before the government undertakes the process of drafting and adopting regulations.

Maybe I won't use up all of my time, but I do thank you very much for your attention. I've given you more detail in the paper that I've provided to you, but I really hope you do take our recommendations very seriously. Our board of directors is most concerned that changes be made before this new bill is announced. Thank you very much.

The Vice-Chair (Mr. Vic Dhillon): Thank you. About a minute each. Ms. Elliott.

Mrs. Christine Elliott: Thank you very much for your presentation. The one item you mentioned that we really haven't heard about before is the issue of neglect and abuse, and your suggestion that someone perhaps like an advocate, an ombudsman, or something of that nature might be able to fill in. Would someone like the official guardian, who's already there to protect vulnerable people, be an appropriate person? Would you like to see something like that entrenched in this legislation, to say specifically that someone like that could become involved where there might not be family members there to protect someone?

Ms. Nancy Wallace-Gero: I'm not sure I'm an authority to speak on the role of the official guardian, but it

is my understanding that the role is primarily around health care and financial matters. Sometimes it is really more important that there be an objective, outside person who can sort of be the one that if there is an allegation or a suspicion of abuse going on—I'm thinking of circumstances like Tiffany Pinckney in Mississauga, a 23-year-old woman with autism who was living with her family; this was 2005. She died of neglect—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Ms. Nancy Wallace-Gero: Sorry. Thank you.

The Vice-Chair (Mr. Vic Dhillon): To the government side. Mr. Ramal.

Mr. Khalil Ramal: Thank you. I get a chance to ask a question too.

Thank you very much for your presentation. I will be quick. My question is around neglect and abuse. That's why we have the inspection without notice, in order to ensure the safety of the residents. Of course, the aim of the inspections is not the residents but the agencies who must demonstrate that those homes are looking after those residents. So I don't see why you are opposing that.

Ms. Nancy Wallace-Gero: I'm not opposed to the ministry coming into homes. I think they should come in with notice, that's all, and they should come in with a warrant that gives some—

Mr. Khalil Ramal: But that would defeat the purpose of the inspections.

Ms. Nancy Wallace-Gero: Well, a warrant doesn't require notice. They could arrive with a warrant. It's just that we believe it's very important that these be considered people's homes first, and it's the rights of the residents who live there. We feel very strongly that they need to be able to be a part of understanding why somebody would come into their home in a very intrusive way. To just randomly allow government—I worked for government for a number of years, so I'm hoping there's no one who works for government like this, but I would hope that they would always come in only when there's some substantial reason to do so. I'm not convinced that would happen.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much for your presentation.

Ms. Nancy Wallace-Gero: Thank you.

1350

MIDDLESEX COMMUNITY LIVING

The Vice-Chair (Mr. Vic Dhillon): The next presentation is by Middlesex Community Living.

Good afternoon and welcome to the committee. If you can please state your name for Hansard, and you may begin.

Ms. Sherri Kroll: Thank you. Good afternoon. My name is Sherri Kroll and I'm the director of organizational development with Middlesex Community Living in Strathroy. I'm also the parent of a six-year-old boy who has been diagnosed with an intellectual disability.

Thank you for the opportunity to speak to Bill 77, the proposed legislation for developmental services.

I would like to begin by recognizing the Ontario government for its efforts in transforming developmental services and working to create a more inclusive society for all citizens. I would also like to thank the government for bringing forward this important legislation, which will likely serve our society for decades to come and have implications on me as a parent and on my son as a service recipient. The proposed legislation looks to address a number of important issues of significance to the developmental services sector. Middlesex Community Living believes, however, that important changes should be made to the bill that will enhance our ability to create a truly inclusive society. I will focus my comments and proposed changes on those things MCL feels will help ensure that people who have an intellectual disability have full control over the decisions and activities that shape their lives.

While there are many issues that deserve attention, I wish to focus on the following two matters: person-directed planning, and living in peace and security.

With respect to the first issue, person-directed planning, Middlesex Community Living recommends that person-directed planning be added as a funded element that is available to all those deemed eligible for supports and services. Such planning should be made available after a determination of eligibility but before a person applies for services or funding and before his or her needs are assessed. Person-directed planning should be made available to the individual on an ongoing basis whether or not the individual proceeds to apply for support or funding beyond planning. Person-directed planning should not be carried out by the application centre but by individuals or agencies that are recognized as qualified planners according to standards that should be set through a regulation or policy directive.

The entire system envisioned by Bill 77 can only have integrity if persons seeking support services under the new legislation are clear about what it is they wish to apply for. Without that, they will face the same situation that has prevailed down through the years; namely, they will be offered services from a list that has been identified by someone else as appropriate in general terms for an entire population. People need supports that are uniquely appropriate to their personal needs at a particular stage in their lives. True person-directed planning looks not only at supports that may be accessed under the provisions of this legislation, but also at supports that are available in the context of the individual's family, community and natural supports, which can often be accessed without government funding or other intervention.

The concept of mandated planning for persons with disabilities is embodied in regulation 98/181 under the Education Act. It is required that an individual education plan be developed for every pupil who is identified as exceptional within the terms of that regulation. In British Columbia, a plan is required to accompany a request for

funding or funded supports. Facilitators assist with the development of that plan. But this model has been criticized because facilitation is not fully independent from the funding allocation. MCL has included in your package a list of research documents that show the benefits of good planning for life in the community.

Person-directed planning can be addressed in the legislation by considering the following change: Subsection 4(1) of the bill should be amended by making the first numbered service to which the act applies read "Person-directed planning," and renumbering the successive items in that subsection accordingly. A definition of "person-directed planning" would have to be added to subsection 4(2), and that could read, "person-directed planning' means services that assist an individual and his or her personal network to plan for a life in the community."

The bill should also make it clear that such planning would be made available at the expense of the ministry, but not as a function of the application centres, to all persons who demonstrate their eligibility for services under the act, before consideration is given to which additional services may be appropriate to their needs.

A section should be added to Bill 77, appearing after section 16, "Review of determination," that would read:

"Planning supports

"(1) Upon determination of eligibility, the application centre shall instruct the applicant as to supports and services that are available for planning.

"(2) An allocation will be made for the purposes of funding the service indicated in subsection (1)."

These amendments must include provisions for continuing review of plans to assess the effectiveness of supports that may have been accessed under the act, and to identify new and different supports that are appropriate to the person's changing circumstances and aspirations.

With respect to our second matter, living in peace and security, Middlesex Community Living believes strongly that we can no longer allow others to have the legal authority to disrupt and intimidate people in their own homes, as occurred during the labour strikes in the summer of 2007. Middlesex Community Living highly recommends that developmental services be identified as a no-strike sector and that provision be established within the legislation to create an arbitrated settlement mechanism to address future labour disagreements. Provisions such as those found in the Hospital Labour Disputes Arbitration Act, or HLDAA, should be included within Bill 77 with the aim of ensuring that the disruptions to people's homes and lives that occurred last summer never occur again.

During the summer of 2007, many people supported by seven Community Living agencies, of which MCL was one, endured difficult strikes and picketing, which targeted their homes. During the strikes, many people were confined to their homes or forced to move away from their homes. Neighbourhoods were disrupted by picket lines, porta-potties, shouting, megaphones and whistles. In some locations, this occurred at all hours of the day and night.

I wish to share with you some personal quotes taken last summer from self-advocates who were directly impacted by the strike. Their comments included: "The curtains had to be closed all the time." "The workers shouted at me." "A lot of swearing and bad words." "They shouldn't be on my property. There was garbage, cigarette butts and a porta-potty in my front yard." "I couldn't go anywhere." "I was trapped in my own home." "I was moved to a hotel. I was very bored, staying in a room for a long time. I had no other choice." "Picketing centred us out. Everyone now knows where we live. We are supposed to be fitting in." "No one knew that I had a worker. That was a private matter." "It's hard to discuss my feelings of what it feels like to cancel your life." "My reputation as a member of this community has been ruined."

Following the strike, the following powerful comments were made: "I feel like everything is different now. It's hard to explain, but I don't think things will ever be the same." "No one said, 'Sorry." "Someone owes me an apology."

The concept of essential services is well established in the context of labour relations where workers provide services that cannot reasonably be withdrawn because of the extreme risk of harm such job action would impose upon citizens. Prohibiting strikes in police and fire services are the most common instances where strikes are simply prohibited. In Ontario, the Crown Employees Collective Bargaining Act provides for a similar approach based on the mutual identification by labour and management of those elements of any particular collective agreement that constitute essential services that by agreement would be maintained during any work stoppage by other employees in the bargaining unit. Services provided by Community Living in Manitoba are subject to the provincial Essential Services Act.

Declaring the developmental services sector a noright-to-strike sector would ensure that such a violation of the rights of people who lived in these homes wouldn't happen again and, furthermore, would introduce arbitrated settlements which could encourage wage parity between people working in this sector and others doing similar work.

Strikes involving support workers in the developmental services sector, and particularly picketing of people's homes, are not simply an annoyance to an innocent third party. The harm done has been demonstrated to be both intolerable and lasting and certainly not compensable in any material way.

1400

This matter can be addressed in the legislation by considering the following change. The bill should be amended to incorporate the provisions of the Hospital Labour Disputes Arbitration Act, or HLDAA, with respect to arbitrated settlements. Alternatively, a developmental services arbitration act could be considered, with provisions that approximate those under HLDAA.

On behalf of Middlesex Community Living, I strongly urge the committee to address the issues of persondirected planning and living in peace and security in order to ensure that the legislation is effective in addressing the needs of people in Ontario who have a disability. Thank you for your time.

The Vice-Chair (Mr. Vic Dhillon): Thank you. We have a couple of minutes each. We'll start with the government side. Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. You talked about many different things. In general, I want to ask you questions about how, if this bill passes, it's going to affect your organizations for the positive or negative.

Ms. Sherri Kroll: I see great effect on the organization in general. I think it's going to limit our ability to truly provide quality supports to individuals and perhaps reduce our freedom to really know the person and provide services at a very individual level to each individual based on their uniqueness. I'm afraid that vacancies in service would simply become spots, and agencies could be forced to accept people into service where there may not be a great fit with an individual who's already in service, and we might lose our ability to help control and manage those situations appropriately.

Mr. Khalil Ramal: But, as you know, the bill does not mean every family is going to seek individualized funding. Some individuals are going to ask for it. In general, in this bill we're expanding and broadening the support in order to include families who wish to seek individualized funding for their kids or for their loved ones. What's your comment on that?

Ms. Sherri Kroll: I appreciate what you're saying, but I'm concerned that when there are opportunities available within a service organization to provide supports to a person, there's going to be limited ability for the organization to make the decision about who accepts or who is able to move into that vacancy, and I think, ultimately, the people who are in service are going to be impacted by that and their choices may not always be recognized.

I also very much share the concerns of the former presenter about the ability of government to come into people's homes without having appropriate notice periods given, and I think that truly is a rights issue that needs consideration for people with disabilities.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. The official opposition.

Ms. Sylvia Jones: I don't really have any questions, Ms. Kroll. It was an excellent presentation. I did not realize the one comment you made about Manitoba and the no-strike zone, so I'm going to do some more research on that one. Thank you.

Ms. Sherri Kroll: Thank you for your consideration.

Ms. Sylvia Jones: Yes, it's a good one.

You didn't really get an opportunity to talk too much about the application centres. I wonder if you could share with the committee a little bit of the issues, if you see any, with the application centres.

Ms. Sherri Kroll: I am concerned about the proposed function of the application centres developing service plans for individuals. I think that the concept of planning

should really be an independent function, not a function that's covered under the application centres' role. Even internally at our service organization, we've seen a huge difference when we've had planners who don't work directly for the person do planning for them. You get a much broader vision of a plan. You truly get a plan that identifies the person, who they are, what their dreams and aspirations are. When people who are in the service and know about the opportunities in service do planning, we tend to put blinders on and only focus on the opportunity and try to fit the person into a vacancy, as opposed to truly understanding what a person wants and then developing services around them. So I really hope that that would be considered in thinking about what the role of those application centres would be.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

KATHY SZUBA

The Vice-Chair (Mr. Vic Dhillon): Next, we have Ms. Kathy Szuba.

Ms. Kathy Szuba: My name is Kathy Szuba. I'm a wife, a mother and, most importantly, a caregiver. I'd like to thank you for listening to me today.

For years now—decades, actually—I've been thinking that there's something wrong with the way our system works. I know this because no matter how hard we struggle, nothing ever gets easier for us and no one seems to notice.

I listened carefully recently to Mr. Prue as he was speaking in the House about Bill 77 and became a bit more optimistic that finally some things I've been concerned about might be addressed. We've constantly fallen through the cracks, and no one even knows that we exist. So I'd like to tell you a little bit about our lives and see if anything in this bill might apply to us and others like us

My husband and I care for our severely disabled daughter at home. Michele is 41 now. We've cared for her since birth. We want to care for her, and no one else would be able to do this. She needs total care and has many seizures. Our goal every day is to keep her healthy and comfortable and provide her with the best quality of life possible. We succeed in doing this, but it requires continuous, one-on-one care. When she was a few months old, the doctors told us we would never be able to take care of her at home. Needless to say, they were wrong.

My husband and I chose to farm so we could work at home. Early on, we had our parents, who assisted us in providing Michele with the daily care she required. My mother was a godsend, and Michele was a very big part of her life. However, for the past 20 years, we have been down to just my husband and me to provide the constant care our daughter requires. One of us stays with Michele while the other does the work of two people outside. We cross paths in the doorway, one of us hurrying in, the other hurrying out. Nothing is ever done leisurely. I have

had to become a real superwoman. Sometimes it's impossible to do everything that is expected of me, but Michele is never neglected and her needs always come first. I've sat by her bed night after night when she was sick, since she wouldn't be able to call me. I faithfully reposition her every two hours each and every night, and she's never had a pressure sore or pneumonia.

My husband has developed severe rheumatoid arthritis, and it is now most difficult for him to help me move or lift our daughter; this at the same time when his physical situation has limited the work he can do on our own farm.

Farming is providing very little income for our family these days. It is impossible to save for retirement when it is hard just to get by now. We haven't been able to renovate our house to be disability-friendly; the wheelchair doesn't fit into the bathroom, as the doorways are too narrow, and Michele's room is very small. Nothing is handy; we do everything the hard way. Renovations are not affordable, as are a lot of other things people take for granted.

Anything that is not necessary for Michele's care would be considered to be a luxury by us. Our vehicles are old. Recently, we purchased a newer van to accommodate Michele's wheelchair in case of an emergency. However, we noticed that the PST rebate is taken away, even on a handicapped-use van. Meal replacements were covered by ODSP for a couple of months, but they've been discontinued because they said too many people were cheating. When Michele has seizures, she's too tired to eat and the canned meals were easier for her. We never cheated, but it didn't seem to matter. More and more things are taken away. Nothing new is added; it's a constant fight to try to get anything. We recently purchased a hospital bed for Michele. We thought for sure there would be some assistive-devices funding to help with this purchase, but nothing again.

In November, it will be three years since I asked the doctor to make a house call. Michele had asthma-like symptoms and was having some shortness of breath. Finally, a pharmacist and I solved Michele's problem ourselves, and I'm still waiting for the doctor. I guess I've become somewhat of a doctor myself, because so often we feel like we are on our own. Michele cannot communicate, but I can read her every movement and expression.

In spite of the many difficulties, we would never think of not caring for Michele. We live for her. She is much too disabled, and we are sure she wouldn't last long without us. We've given everything in us and more, all of our time, our energy and our money, for 41 years. This has been our choice. Ours is truly a long-term-care home.

1410

Recently, while reading through the bulletin Spotlight on Transformation, it has come to my attention that the annual cost to provide support for some people is upwards of \$100,000. The fact that we have never received even one penny for our efforts makes us feel that our services for Michele are considered to be totally worth-

less. I mentioned this once to a caseworker, and she told me that there are some lovely homes where our daughter could go if we couldn't afford to look after her. What kind of thinking would take a totally helpless person from a loving, caring and capable family, put them in a home and pay a stranger to look after them? Why are the services of a public service provider funded, while a struggling family providing quality care every hour of every day, year after year, receives no reasonable assistance, not even a small portion of that \$100,000-plus?

My husband and I have never had a vacation. In fact, we have never spent a night away from our home. There are no sick days for me, even though there have been times when I have felt so sick I could barely lift my head off the pillow. Michele always comes first. I cannot go on strike. I have no benefits. My husband's drug costs are enormous. It appears to me that caregivers at home are out of sight and out of mind. Through the entire time period we have been providing for Michele—41 years—never has anyone asked us, "How are you managing? Do you need anything? Could we help in any way?"

I was so insulted when an ODSP person came to our house to see Michele for herself, took down a great deal of information, then demanded to see her bank statement. They said they had to be very careful to see that we weren't profiting. Right then, I knew that this person knew nothing about situations like ours.

We have the same obligations that normal families have but with such disadvantages. Every day is a struggle

and, more importantly, a financial hardship.

Some people tell us that caring for Michele must be such a burden, but to my husband and me, the real burden would be not to be able to care for her. All any family in our situation is looking for is respect and the opportunity to make reasonable choices in the care of our children, the opportunity for choice that comes without the disadvantage of undue financial hardship. Although we have never asked for anything, I think it is time that some assistance is made available for those who look after their family members at home. We have more than pulled our weight and never complained. Michele's cost to society has been very minimal for 41 years.

Just because we are parents doesn't make us any less important than other service providers, nor should we be treated differently. My services to Michele come from my heart and have proven effective for over 40 years. No amount of money could ever come close to paying me for that. To be truly fair to everyone, however, and for us to have a small amount of dignity, some financial support would be greatly appreciated.

We don't have high expectations. Our family values are simple. If I wake up sane, Michele feels well, and my husband is not in too much pain, I say to myself, "It's

going to be a good day."

I thank you for listening to me today and hope you review my comments and see if there's anything in there for us.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We have three minutes each. The government side.

Mr. Khalil Ramal: Thank you very much for your presentation. This is why the government designed Bill 77: in order to support families like yours who decide to continue to care for their loved ones on their own. I hope that if this bill passes, it will benefit you a great deal, give you some kind of support and some assistance if you decide one day to go on vacation or seek some kind of support from specialized people who come to your house. I wish you all the luck and thank you very much for what you do on a daily basis.

Ms. Kathy Szuba: You talk about providing services; that isn't the main thing that we need. We have special services at home. We have a person who comes in—we're allowed seven hours a week—but that doesn't do anything. That worker gets the money. We go away, we come home, and we haven't gained anything. We would actually like to have financial assistance. I'd like to have my services paid for, because I'm providing a service, the same as any service provider anywhere. Why couldn't I, just like any other home care worker, be paid a little for my services? We are the ones who need to care for her, with hardly any income. Any services that a worker will give will not do anything for us, because we won't gain one dollar by that.

Mr. Khalil Ramal: But you see, the bill is designed not to give the parents some kind of, what do you call it?—to gain financial support. This bill is designed to give the parents the kind of support they need in order to service their kids. That's the way it goes, because naturally it's our obligation as parents to look after our loved ones.

Ms. Kathy Szuba: But not when they're 41 years old. We want to look after our loved one. If we didn't, we wouldn't have done this for 41 years. I am also a service provider. No one has provided as many services as I have for 41 years.

Mr. Khalil Ramal: Sadly, this is not designed to give the money for the parents in order to get paid for what they do for their loved ones. The system is designed to give the parents the ability to seek some kind of service outside their house. And also, if they cannot care for their loved one, there are a lot of organizations across the province that are designed to do this job.

The Vice-Chair (Mr. Vic Dhillon): Thank you, Mr. Ramal. Mrs. Elliott?

Mrs. Christine Elliott: Thank you, Ms. Szuba, for your comments. I think that you've really touched at the heart of what this is all about. You and your husband—and many other families—have quietly gone about taking care of your child in your home without asking for anything and being largely unnoticed and not appreciated for your efforts. You have saved the government millions and millions of dollars over the years.

I think, from the comments that you've made today and many other people have made, that the time has come for a change. That's what we need to grapple with as we look at how this bill is being designed, how it's going to help individual families and provide the individual supports that you need to continue and, in your

case, to care for your daughter as long as you and your husband are able, and also to know that when you're not able there are going to be the caring supports—not just the financial supports—that we all hope for for our children. I really appreciate the comments you've made, and please know that we will take them to heart when we continue our discussions.

Ms. Kathy Szuba: Thank you very much.

The Vice-Chair (Mr. Vic Dhillon): Thank you for your presentation.

ONTARIO AGENCIES SUPPORTING INDIVIDUALS WITH SPECIAL NEEDS

WOODSTOCK AND DISTRICT DEVELOPMENTAL SERVICES

The Vice-Chair (Mr. Vic Dhillon): The next presentation is from the Ontario Agencies Supporting Individuals with Special Needs and Woodstock and District Developmental Services.

Welcome to the committee, gentlemen, and good afternoon. If we can get your names for Hansard, you may begin. You have 15 minutes.

Mr. John Bedell: Good afternoon. My name is John Bedell. I'm the executive director of Woodstock and District Developmental Services. Mal Coubrough sits to my left. He's the president of the board of Woodstock and District Developmental Services.

Thank you for the opportunity to be here. Thank you for your attention. It's been a day and a bit and you have two and a half still to go and you're still with it, so I commend you all for still being with it.

Woodstock and District Developmental Services has been providing supports and services to people with developmental disabilities for about 50 years. We are the average kind of organization, having 190 staff, an over-\$6-million budget, supporting 200 people, funded by the Ministry of Community and Social Services.

We were one of the six founding member agencies of OASIS, Ontario Agencies Supporting Individuals with Special Needs, some 10 years ago. That organization now has a membership of 140, some 25,000 staff, 27,000 people and about two thirds of the budget given to transfer payment organizations.

1420

OASIS is a founding member of the Provincial Network on Developmental Services. The OASIS response and the provincial network response to this legislation will be forthcoming to you. OASIS met and approximately 70 organizations met to review the legislation, and they came up with a list of matters to be raised. We're just going to focus on five, some of which you've heard, a couple of which you may not have, today, just for the sake of variety, even though I wrote it yesterday.

First is the future role of service provider agencies. During the transformation process, we heard repeatedly from politicians and bureaucrats that the transfer payment agency system was the backbone of developmental services. We were, to quote the minister when she spoke at the OASIS conference in Niagara Falls, the "jewel" in her crown. Yet the words that have been spoken and the words that have been written in Bill 77 do not necessarily match.

There is the establishment of another arm of bureaucracy. There's the potential for fines for boards of directors who fail to comply with as-yet-unidentified quality assurance standards.

The bill doesn't provide for a framework of communication and collaboration that's necessary to co-ordinate service delivery. Co-ordination in funding is required between the service provider agency, the application centre that's proposed and the ministry. It's unclear how application centres will commission services from a service provider agency, especially if it does not have the resources so to do.

Such ambiguities make it difficult to determine the ministry's future intentions for service provider agencies. If we're not directly connected to application centres through a contract for service, and if application centres can contract with third parties, including for-profit organizations, through direct funding agreements, it raises the question of whether the ministry contemplates a role for service provider agencies in the future, and, if it does, what that role might be.

While we welcome the concept of direct or individualized funding, and those two are different, for those who might wish it—in fact, we have some people supported in our organization currently receiving individual funding—we would like to see the importance of a strong, viable, accountable transfer payment agency system included in some form of preamble to the legislation.

We believe the legislation should have a preamble that will speak to the spirit and the moral guidance of the act and include foundational value statements, statements as to the scope and purpose of the legislation, and a base definition of minimum standards of support—we would suggest that a review be made of the UN Convention on the Rights of Persons with Disabilities in this regard—and in addition, a statement of the importance of the transfer payment agencies within the system. Not only, we believe, would such a preamble assist in guiding in the development of policy directives and regulations; it would clearly communicate the very purpose of the act and the vision for the social change that's taking place in this sector.

Third is funding: There are a number of funding concerns which this proposed legislation raises. We're very supportive of the expanded definition of eligibility to include individuals who have previously been excluded. While that's good on the left side, on the right side there have to be some funds found in order to meet that expanded group of people.

We're heard a lot today about application centres. It's hard to envision exactly what the system will look like and exactly what the costs will be, but history shows that when we had Making Services Work for People, more affectionately known as "making people work for

services," we had central points of access, and those central points of access were funded by levies on existing organizations, which meant a cut in direct service, which meant increased waiting lists.

It's further not clear what the provisions will be for people currently receiving service. We know that their eligibility will be grandparented, but not necessarily their access, their priority or their level of funding. That's a concern for individuals, for their families and for organizations, including staff, especially if there are to be significant reductions. We would request a statement pertaining to the transition to allay the fears of all concerned in this regard.

Mr. Mal Coubrough: Fourthly, we would speak to the governance and liability of agencies. A system where options and choices exist for individuals and their families is dependent upon services being available. The not-for-profit system relies on community support and on volunteers willing to take on the responsibilities and accountabilities of overseeing these organizations through a board of directors. Community agencies have developed and grown over the years in response to local need. The tremendous diversity of Ontario is reflected in the individual bylaws and board composition of such local community agencies.

We are very concerned that under Bill 77, as currently proposed, the province would have the authority to impose things like board composition on service agencies without regard for local differences. It is important to note that similar authority does not extend to the application centres or third party providers within the legislation. Clarification is required as to why service agencies are the target of this particular section.

Further, of particular concern to me as the president of a board is the liability imposed by paragraph (c) of section 35(1), in which a person could be found guilty following a failure to comply with reporting requirements or quality assurance standards even if the failure is unintentional. This might mean that a member of the board of directors could be held individually responsible for this transgression. OASIS has obtained a legal opinion that expresses concern that directors' liability insurance may not cover this particular situation. Given the current difficulties that some local community agencies have in recruiting and retaining competent board members, this punitive aspect of the legislation should be removed. When you have that kind of liability, it's a barrier to board recruitment. When you are recruiting a new board member and you say, "Oh, by the way, you're on the hook for the first five grand," it really doesn't kick up their enthusiasm.

Reviews and appeals: The legislation includes some internal appeals which really involve a self-judgment process whereby the organization making the original decision is also hearing the appeal. In other cases, appeals have to go directly to the judicial route, which can be a lengthy, costly and quite inaccessible process. Using dollars intended for social services subsumed in the judicial process leads to a decrease in social services

unless the ministry is funding the process. Delay in resolution inherent in the judicial process hurts our folks with special needs and their caregivers.

More equitable, transparent and fair would be a third party dispute resolution mechanism for the various stages of decision-making that occur within the system. This would ensure that decisions are reviewed by an independent body and appeals are heard by a non-biased party. This might include disputes between service provider agencies, application centres, ministry, families, people receiving direct funding and/or people receiving services or not, as the case may be.

Indeed, perhaps this is a missed opportunity in this particular area of dispute resolution. Perhaps a local mediation or meta-arbitration process could be set up to resolve these issues. It is my understanding that the Ministry of the Attorney General has for some time experimented with several pilot applications. They may be an excellent source of suggestions and/or wording in any revisions to your dispute resolution processes. Ultimately, of course, the fallback position is and must remain the judicial system available to everyone.

1430

We thank you for your favourable consideration of these and the many other issues raised by OASIS and the provincial network, and we do look forward to the fruits of your labour. Thank you for your time.

The Vice-Chair (Mr. Vic Dhillon): Thank you for your presentation. A couple of minutes each. We'll begin with the official opposition.

Ms. Sylvia Jones: I just wanted to thank you for the presentation. You've touched on the reviews and appeals a little more than some of the other presentations. The idea of using the judicial system just frightens me—to talk about delays and wait-lists again. It would be a beautiful way to delay service once again, not to mention, as you've said, the cost involved, so we're going to have to look at some alternatives.

Have you seen any mediation or appeal processes that are currently in place that could be used under Bill 77?

Mr. Mal Coubrough: The base principle of mediation is a neutral facilitating third party who tries to get folks to solve their own—I do know that the AG was trying something, I believe in Ottawa in the family court system, but I'm a little out of date on that.

Ms. Sylvia Jones: Yes, I've heard about it with the family court system, but I've never heard it with—

Mr. Mal Coubrough: It's the same principle. It's a dispute. We call it an appeal. It's a dispute—"I say, he says, I think. Let's sit down and work it out." The principles are universal. The technique—heaven forbid—could apply to the Ontario Municipal Board to speed up dispute resolution processes.

Ms. Sylvia Jones: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Mrs. Van Bommel.

Mrs. Maria Van Bommel: Thank you for your presentation. You were right; he did bring up some things that we hadn't heard before. I'm particularly interested in

your comments about liability for board members. I'm assuming that board members in your board are similar to hospital board members, where it's basically a volunteer position?

Mr. Mal Coubrough: Yes.

Mrs. Maria Van Bommel: Okay. So any liabilities and that are covered by the board itself, the cost of insurance—

Mr. Mal Coubrough: We have an insurance policy, wes.

Mrs. Maria Van Bommel: And your legal advisers have told you that there's a possibility that that insurance would not cover?

Mr. Mal Coubrough: Would not cover this particular type of infraction or perceived infraction.

Mr. John Bedell: That's correct.

Mrs. Maria Van Bommel: Okay. I'm a little surprised, because I would assume it to be the same process as would happen if you were on a hospital board or that sort of thing. Thank you very much for that answer.

The Vice-Chair (Mr. Vic Dhillon): Thank you, gentlemen.

WINDSOR-ESSEX FAMILY NETWORK

The Vice-Chair (Mr. Vic Dhillon): Next we have the Windsor-Essex Family Network.

Ms. Michelle Friesen: Good afternoon. My name is Michelle Friesen. I'm from Essex county. I live in a small town called Woodslee. I am involved on a few fronts, and have been with transformation from the beginning.

Firstly, I am here as a parent and a mother of an adult daughter who is 27 years old and has a developmental disability, physical disabilities and some multiple, complex medical needs. But before playing that role in this report, I wanted to mention as well that I'm the cochair of the Individualized Funding Coalition for Ontario. We've chosen not to make a formal presentation at the standing committee. We'll be submitting something, as so many of our individual members and organizational members are making presentations. We're also in support of the ad hoc provincial group that met, and I think you've received that brief from Judith McGill.

In addition, I manage and coordinate the work of the Windsor-Essex Family Network, which is primarily a volunteer organization. We receive no Ministry of Community and Social Services funding. We rely on foundations, donations, membership fees and that kind of thing. Today, that's the role that I play.

Windsor-Essex Family Network met with a focus group of families in July, 14 different families that included a good cross-section of people who are involved in utilizing the model of support that came out of Making Services Work for People in Windsor and Essex county. I'm going to just do a comparison of the kinds of features the families said they held near and dear to what they think might happen as a result of Bill 77. These families

looked at both the original legislation and the plainlanguage version. I will mention that the families included senior citizens, three of whom were over 75 years old; there were six parents between the ages of 45 and 60; there was an individual; a brother, a sister and a brother-in-law. So we had a good mix of people from all around the area.

This is a comparison of the features in Windsor and Essex county to what the province of Ontario may be developing. For 10 years in Windsor and Essex county we have experienced a model of support that does not exist systemically anywhere else in the province. In addition, families in our community have 25 years of experience and practice with special services at home. Families have worked hard to ensure accountability, made good use of dollars, and provided quality lives for their family members with a disability.

One of the important features that we have found in Windsor and Essex county that has been entrenched in service contracts with agencies since 1997 is portability. Portable funding has been entrenched, and many families want to keep it that way. Without portability, they say, their sons and daughters, sisters and brothers cannot live as true citizens and their human rights would be compromised. They want to choose where they live and what kind of support they need—critical to all citizens of Ontario. All of us in this room want to have those choices. Even though we know from research and experience in our area that only a small number of people actually utilize portability, it must remain as a choice. We cannot go backwards.

We took the liberty to speak to the executive director of the community living organization in Windsor to ask about portability and how it had affected that organization, because there are a lot of fears around the province about what that will do to the transfer payment system. He was very clear to say that it can be worked out respectfully, working and mediating a contract through; nobody rushes out. It would be our intention that that not hurt a person, an agency or anybody, that systems could be in place. There is no mention of portability in Bill 77.

The next important feature to people and families in Windsor and Essex county is independent planning and facilitation. There's been lots of talk about planningperson-directed planning, independent planning. We clearly believe that through the Windsor Essex Brokerage for Personal Supports, also called Brokerage, which has been providing unencumbered independent planning and facilitation to people and families in Windsor since 1998, when it began as a pilot project supported by this ministry, people have become empowered; people have had more choices. It has been very helpful with people and their families who needed support to understand their different views, sometimes from the person to the parents. It has been very helpful for people who don't communicate typically the way the rest of us do, as they listen deeply and get to know people. It has been very important for those who have wanted to take different risks and try different things and create their own supports. It has been very important for people who have chosen the traditional system and who need help mediating their supports from within.

There is no mention of independent planning and facilitation in Bill 77. Instead, the bill speaks of the application centre working with you to decide what supports you need.

Creating a profile: People are also expected to identify when they want direct funding or base-funded support without the benefit of independent planning and that information first. When people apply for funding, they should not have to choose upfront which support they want to use. They would need the education and the information opportunities. Life changes, and people should be able to make those changes as things change.

Individualized funding with choices for flowing funds and supports has been a critical support in Windsor and Essex county for the last 10 years. People have chosen their services and supports and they've changed them as needed. They have created things from the ground up and they have chosen which transfer payment agency they wanted to hold their funds, track finances and assist them with monitoring and accessibility. They have spent their funds according to a budget and a personal support agreement. The people themselves, with the help of family or a support network, have decided what kinds of supports they need. Many families have gained a wealth of experience and they have found that the blending, sometimes, of traditional support through the TPAs and individual supports have worked for them, and they have found choosing what level of assistance they need helpful.

1440

There are limited to no options in Bill 77 with regard to the way direct funding is described. It appears to be an all-or-nothing option for managing the funds. The infrastructures needed to support people and families are not mentioned in Bill 77. According to the bill, the application centre would determine what services a person could receive, allocate finances, serve as the bank, and would do the accountability and monitoring. This would be a huge conflict of interest, resting in one organization.

The other thing that is critical to our community is that for almost 10 years, we have developed and successfully utilized a respectful prioritization process. It did not cost extra funds and there were no levies taken from agencies to create this. This respectful process utilizes a process coordinator, with volunteers who sit on a priority panel. The panel is made up of our peers and community members. It is anonymous to us. In turn, requests from families with applications and their plans go forward anonymously. So there is no decision-making, in terms of everyone's in a golden fishbowl and agencies know exactly your business. That is something our families in Windsor and Essex county absolutely fear. Families have trusted this process and are hopeful that there would be some way to make room in Bill 77 for something like this to continue. The application centre model has the potential for derailing the process coordinator, our respectful prioritization process, the choice of banks or transfer payment agencies, and the flexibility and monitoring and accountability.

Equal partnerships and monitoring: The person, family and agency have responsibilities in this system we've created and are treated as equals. Monitoring and accountability include family, friends and/or a network of support to ensure the person's quality of life. In this work, families who use brokerage have been more than willing to give back their funds toward the end of the fiscal year so that other families could be helped. This provides an opportunity for others to use the funds and has resulted in a caring, community-minded approach where people are responsible to each other. This is empowering.

The application centres described in Bill 77 have an enormous amount of control; they appear almost godlike. They make a lot of decisions for the person and family, which could potentially take away from the creativity and the responsibility that people have embraced in Windsor and Essex county.

We have embraced what we call an "empowerment model." This means that all the control for important functions in the system exists in different places and organizations; they are not under one roof. To have all the functions under one roof or in one aspect of the system mimics the old institutional model. In the empowerment model, advocacy, planning and facilitation, direct services, and supports and allocation would all exist in different places. There needs to be the opportunity for those functions to be available in different organizations.

Bill 77 derails the empowerment model. It describes a case management, service coordination, managed care model. This is not empowering. Many families do not want something that mimics the CCAC medical model, nor do families want all the features and functions they require to only be available through direct service providers and/or application centres. There needs to be some infrastructure for independent planning and facilitation outside of the service system and some way to strengthen independent and autonomous people and family groups.

Healthy tensions created in an environment lead to creativity and responsibility. Over the 10 years that this has existed in Windsor, in fact, the traditional support system has grown, and we know that two thirds of people and families will choose that, and this transfer payment agency system will continue to be needed. At the same time, what we're looking for are options for that one third of people who may want to do things differently and create things from the ground up themselves.

Supports, as we know and understand them: To many of us in Windsor and Essex county, the word "supports" means being able to purchase what is needed to live an everyday life. It is not about being in service or having a life provided by one service program. In Bill 77, agency services are described as being "prescribed services," "being serviced," and "service" words are all over the bill. Our own lives and those of our family and friends

are not built around services or even "service" words, but around a home that is developed with help of family and friends and people who are hired or contracted to support the person. The word "supports"—a more natural way to look at life—is not found in the original Bill 77, although we do see it in the plain-language version. We would like our everyday lives described in a manner that doesn't mean that we're being serviced or that our sons and daughters or brothers and sisters are being serviced.

In summary, the families who came together on July 15 as a representative group in our area give credit to the ministry for the new definition of "developmental disability" and for determining that new legislation is needed. In addition, the move to direct funding is a positive one, but grounding the document in values and clarifying what infrastructures would be available to empower people who choose direct funding and want to live everyday lives would be critical to enhancing this legislation.

The following questions have arisen: What will happen to our sons, daughters, sisters and brothers if their lives are reduced to economics and standardized templates, as opposed to a life of quality, as determined by them? Amending Bill 77 could avoid this scenario. Will the empowerment of families that families have experienced by the good characteristics of the Windsor-Essex model be eroded? What will happen to special services at home? Will SSAH have to go through the application centres? Families are concerned about any changes and erosion to the immensely successful SSAH program that may occur.

Families have watched the closure of the institutions and the resources available to the individuals who have moved there. Some have found this heartbreaking when they sit on a wait-list and have supported their family member in the community for years and years. This is especially true when we watch parents between 80 and 90 years of age who are still caring for a son or daughter with a developmental disability at home, with little or no support. It is even more heartbreaking to be aware that infants and preschoolers do not have special services at home support at an important and critical time in their growth. Parents, sisters, brothers and others, as main caregivers, need support from the government of Ontario. The entrenching of wait-lists has made more fears arise around that. Families, in general, are living with a great deal of stress and anxiety. Add to that the reality of caregiving, a lack of resources, their own aging, fears about Bill 77 and what that could do to undermine the local model of support we've had in Windsor and Essex counties-something tried and true-and the anxiety increases. There are some very concerned parents reflecting on how people will live as full citizens and actively pursue their basic human rights, with Bill 77 in its current form.

We respectfully ask this government to consider making some amendments to Bill 77 that would consider the success of the model that we've used in the last 10 years and make room for that. People and families have been responsible and active partners. We ask that you refer to the document prepared by Judith McGill from the provincial ad hoc group, as well, and consider those thoughts. We ask that you consider working with the Individualized Funding Coalition around definitions and possibilities for person-directed planning and the idea of independent planning and facilitation.

Lastly, we would like to sincerely thank you for taking the time to consider our thoughts and our concerns.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. That was perfect timing, so there will be no questions or comments.

WINDSOR-ESSEX BROKERAGE FOR PERSONAL SUPPORTS

The Vice-Chair (Mr. Vic Dhillon): Next, we have Windsor-Essex Brokerage for Personal Supports.

Good afternoon, and welcome to the committee. You have 15 minutes. Please state your names for the record; then you may begin.

Mr. Rolly Marentette: Rolly Marentette.

Mr. Al Hendry: Al Hendry.

Ms. Marleen Crawford: My name is Marleen Crawford. I'm the president of the board of directors of Windsor-Essex Brokerage for Personal Supports. I'm also the parent of a 33-year-old daughter who lives with developmental and physical disabilities every day.

You will hear me refer to "Brokerage" as I speak. I want to begin by thanking the Liberal government for bringing about legislative change that includes direct funding. We know the work that is involved in transforming a system, and we commend the Liberal government for its transformational document Opportunities and Action—Transforming Supports in Ontario for People Who Have a Developmental Disability. Based on that document, we would encourage this committee to ensure in writing that this is an act that enhances social inclusion for persons who have a developmental disability.

1450

Our community began by recognizing that, along with individualized funding, there was a need for infrastructure support that would enable people to build meaningful lives in their neighbourhoods and community. For those people who do not want what is available within an existing agency or who no longer need to fit into the existing services being offered through ministry-funded agencies, we believe innovation is the answer.

Brokerage began as a project in 1997 and received ongoing funding from the ministry in 1999. Brokerage was established to provide information from a broad range of options and to provide independent planning and facilitation support, assisting people and their families and others whom they trust to define their lifestyle. This takes into consideration all aspects of their life: housing, recreation, work, education, volunteering, getting together with friends and everything else that we take for granted. A protocol was signed with service-providing agencies in 1996 agreeing that if people and families were not happy with their supports and could not get

resolution to their concerns or were moving to another city or town, they had the right to move the support dollars to the agencies of their choice. That portability clause is written into the service contracts with agencies today in our community. Brokerage assists with mediation, negotiation, shopping around for those services and supports and moving funds if needed. Contractual agreements are also completed.

Now I'll talk to you a little bit about what we have learned in the past 10 years and make a few suggestions.

- (1) Bill 77 needs to reference the work that the United Nations has done: the principles of respect for a person's inherent dignity and individuals' autonomy, including the freedom to make one's own choices, as well as having the equality of opportunity. The person's voice is missing in Bill 77.
- (2) Our work in Windsor-Essex county was based on recognizing supportive decision-making. The United Nations Convention on the Rights of Persons with Disabilities has included the recognition that a person labelled with a developmental disability has the legal capacity to make sound decisions through supported decision-making.
- (3) Bill 77 needs to include independent facilitation and planning support. Not only should this be made available to those who choose to have direct funding, but it should be seen as a basic right to each and every person with a developmental disability once they are deemed eligible for funding and/or services. If there is fairness and equity in the system, then the sector cannot focus all its energies on those deemed the most in need.
- (4) Portability should be included in the legislation. People should have the right to move their support dollars whether they have direct funding or need their support dollars to be unbundled from an existing support arrangement within an agency. They should be able to move those resources to another agency or town if needed. The broker function needs to be added to make this work.
- (5) There is a serious wage disparity between those who work in an agency and those working in the community under direct-funding arrangements. We want to see support workers receive a valued wage when working for an agency, but we believe the same is true for those supporters who are contracted or hired by a person or family. My daughter Megan has both contracted and hired people who support her.
- (6) The legislation refers to internal reviews that may result in the termination of direct funding if misused. Part of an independent planning process is the building of knowledge and capacity to direct one's funds. Through this process, people, along with their families, decide whether or not they have the capacity.
- (7) To enable direct funding to be a viable and sustainable option for people and families, Bill 77 needs to clearly state that investing in infrastructure supports is necessary. Those supports are independent planning and facilitation, a brokerage function, human resource sup-

ports, as well as supporting autonomous advocacy and self-advocacy groups.

During the past 10 years, people with disabilities and their families in Windsor and Essex counties have had individualized funding or dollars of support attached to them. During that time, the option of individualized funding for people and their families and the ability to direct it themselves has not resulted in lost jobs for workers. The fine agencies have remained viable and strong in Windsor and Essex counties. This is not a competition; this is a choice.

You have quite a job ahead of you, and I commend you for really looking at this bill. My daughter needs you to ensure that Bill 77 gives her a voice and a choice in how she lives her life, with our support and paid support. She is fully included in her community. My daughter is evidence that independent planning and facilitation, coupled with direct funding, need to be sustainable in Ontario.

Just as a note of interest, we've been planning for two and a half years for my daughter to live an independent life, move into her own home and start living as a part of her own community. We started planning well before we had any individualized funding, but we knew that it was something that we needed to do because my husband and I are getting older and we wanted to see her in a situation that was safe and where she is included as a full citizen of her community. As we speak, this week we are doing the training for her support workers who will be taking care of her in her home, and she'll be moving into her home next Tuesday. This would not have happened without Brokerage and the support that they give us and the independent planning and facilitation that has taken place over the past two and a half years. We value what we have in Windsor, and we sincerely hope that you take a look at us and see what we have.

Thank you so much for listening to me.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We have a little bit over two minutes for each side. We'll begin with the official opposition.

Mrs. Christine Elliott: Thank you very much for your comments. We certainly will be taking a very hard look at what you're doing with your agency. I'm also really interested in your personal comments about the length of time that it took for you to build an individual plan for your daughter. I think it really does speak to the need for those independent, individualized planning supports, because it's not just a simple matter of getting the dollars and using them with one particular support. As I understand it, there are circles of supports that need to be built, not just for financial support but to ensure that your child is going to have the kind of life that you want them to have in the community. So I agree with you. I think it's essential. Thank you for your comments.

Mrs. Maria Van Bommel: Thank you for your presentation. I'm curious about the empowerment model. I see you have a chart of that model in your presentation, and the previous presenter also talked about the functions being separated. How does Brokerage work? Where does Brokerage fit into this model?

1500

Ms. Marleen Crawford: Well, they are the planning part of that model, the unencumbered planning part of that model. We work with people who request our services. We sit down and the brokers—Al here is a broker; Rolly is a board member. Al works with individuals who ask for their help. He sits down and listens. The previous speaker spoke about deep listening. The brokers are past masters at deep listening and trying to get an idea of what would work best for the individual and then doing the planning to achieve this, the goals.

Mrs. Maria Van Bommel: Where do families enter the system in this model? Where do they start? If you're coming for the first time to find help for your daughter,

where would you enter into this model?

Ms. Marleen Crawford: Well, it may start in any one of those. In an advocacy organization, they recommend Brokerage for a family to start thinking about planning. High school: Brokers go out to high schools and talk to the teachers about giving good information to families when children are making the transition from the high school setting into the adult world. That can be like dropping off the edge of a cliff. Whoever can provide information about Brokerage, that's the way people find out about it. There are service delivery organizations who will say to families, "You might be helped by Brokerage." Families will find out about it through networking and partnering.

Mrs. Maria Van Bommel: I'm just trying to—I've had a number of people over the years come through my office and talk about the fact that they're looking for sort of a one-window approach where they can start at one point and they know where that point should be and then go out. That point would then send them in those directions, because most people don't know where to start. They are trying to figure out where they can find the services for their child. I've had people come to my office and say they weren't aware of services until their child was no longer eligible for them. They were kind of angry that they hadn't been aware of these services, because they needed them.

Ms. Marleen Crawford: That happens quite often. Brokerage is the central point of information for adults in the Windsor-Essex area.

Mr. Al Hendry: We walk along with people, so they would contact us as a first information and then we would begin a relationship with them that never ends. It doesn't stop just because they've got some services or something. Once they've maybe achieved some level of support that they want, we continue to evolve with them as their life changes.

Mrs. Maria Van Bommel: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you for your presentation this afternoon.

BILL HILTZ

The Vice-Chair (Mr. Vic Dhillon): The next presenter is Mr. Bill Hiltz. Mr. Hiltz?

Mr. Bill Hiltz (audio recording): My name is Bill Hiltz. I am not disabled; I am differently abled.

The Vice-Chair (Mr. Vic Dhillon): Sir, can I just ask you to state your name?

Mr. Arnold Row: Yes. My name is Arnold Row. I am an intervener with Bill.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Mr. Arnold Row: Bill has been struggling with the effects of his very sedative seizure medication. We weren't sure that he was going to be able to prepare this presentation. Because it was important to him to appear before you today, Bill, with his support network, decided that it would be important to use a different way to help get his message to you. So please bear with us for a few minutes as we do something a little differently. Could we ask for a little interaction between us and you personally? Is that acceptable?

The Vice-Chair (Mr. Vic Dhillon): Yes, that's fine.

Mr. Dave Levac: Thank you, Mr. Chairman.

Mr. Arnold Row: What we're going to ask is that each of you take on a disability so that you can understand exactly where we're coming from. We're just going to take a couple of minutes and do that. Thanks for indulging us.

Mr. Dave Levac: Just as we're setting up: I find this to be a very appropriate exercise in that all, if not most, MPPs have been asked to participate in this kind of activity in their communities, with community living. Most have been able to successfully navigate this, which is why I'm committing to you that I think this is an appropriate activity for the committee, not to be seen as anything other than a learning experience. So I just wanted to put that on the record.

1510

The Vice-Chair (Mr. Vic Dhillon): Thank you, Mr. Levac.

I'd just like to state that some parts may be difficult to record in Hansard, so just keep that in mind in terms of making sure we get everything on record as much as possible.

Mr. Arnold Row: Thank you. Everybody, just take a minute and realize what it's like to be blind, to be deaf or to have any other differing ability like autism or spina bifida. Just think about that for a minute.

In the next minute, Bill asks that you please consider how you felt. I'll just keep reading, and I suppose that if you've got earplugs in, you probably want to take them out if you want to hear what I have to say, but otherwise, you can keep them in.

He wants to know how you feel having lost your choice and control of your life for the last few minutes. Were you less able to make decisions because of the differing abilities we gave you? Some people would think you were not able to make such decisions, but with the right supports, you would be able to make decisions about your life.

This is why and how Bill thinks that Bill 77 needs to be changed before it becomes law for many more years to come:

"Choice: Choice and control are very important parts of citizenship. I was denied citizenship for eight years of my life. I know how important citizenship is. When I was younger, I lived in a facility. My life was not mine; it was theirs, but now I make choices about my life. I live in a home with a family, one that I chose. I choose the people who help me. They help me to make choices about my life. I don't bite myself anymore because people listen to my communication.

"Language is important. The language must change to break down barriers. 'Disability' is too limiting; it means not being able, but that is wrong. We are all able. We all have differing abilities.

"Services: Change 'services' to 'supports.' Nobody needs services to be a citizen. They need supports to help them be a real part of their community. I don't want special services; I want help to use services already there. Only that way will we all learn to accept one another.

"Individualized funding: Thank you for listening and giving us individualized funding. Individualized funding is an important part of building citizenship, but please do it right. 'Right' means listening to the people who need the supports. We are the experts.

"Planning: Person-directed planning is so important to build a life and community. You all do it easily. For people with differing abilities, it takes a lot of work.

"Here's a picture of my life in community. It is possible only with the help of many: a facilitator, my support circle, my interveners, my family home providers, my doctors, my nurse and my friends. They give me the chance to experience life, to include new people all the time. You have that picture there in what we handed out.

"My strengths and abilities and knowing what is important to me have opened many new doors. Joyce and I gathered people around me to help ask questions and plan for my life in community. Without funding, my life in community was not possible. Work was needed to get funding. We did the work; we got funding. But there was a difference of philosophies between us and our service provider, so we had to call on the help of my support circle to help me solve that problem, but we couldn't quite do it alone. So, by networking, we found Helen, a great facilitator. She was able to solve some of the problems we had. My life is so much better now.

"In 2002, we asked the ministry to let us move my funding to another agency, but they wouldn't do that. My funding is portable, but only within the program. We asked the ministry to make my funding individualized. They said they couldn't do that; there is no such thing as individualized funding. We gave examples of people who have individualized funding, but they still said no.

"This whole thing made me very sick, physically. So after trying everything else, we went to Queen's Park, to the minister's office, to ask again. Still the answer was no. After that, things were made really hard for me. That's when we really needed the help of our facilitator.

She made things better for me. My support circle worked hard. We have all the things we need to make individualized funding work, but the ministry is still saying no, so we are hoping that we can soon move my funding.

"The stress level was high. Everyone around me was working so hard. None of this had to happen if funding had been fully portable. We can't find anything in Bill 77 that says that we would be able to move my funding, but the vision for transformation says money should go with them if they move to another community in Ontario; it should be portable. Each person has their own needs. People should be able to decide for themselves who will provide the supports they need and how those supports will be provided. The money should be flexible. I just want to choose the agency that would make things better still and give me control.

"We talked with the deputy minister a few years ago. He said that with the new system, we would be able to move the funding, so we wait.

"I hope that because I have said these things, things will not get rough for me again, but I think you need to know why this is so important to me. That is why I am here today. Even though things are good for me now, it is still important that things change for others. That is why I am a member of the Individualized Funding Coalition for Ontario, Family Alliance Ontario and London Family Network.

"I was part of the provincial ad hoc working group for Bill 77. This group was made up of people from many organizations. We all shared the same vision for a support system based on citizenship. We came up with recommendations to help make this bill be the best that it can be. I hope that you will think of me, the person who needs supports, when you consider the recommendations. These are important to me and need to be in the bill.

- "(1) Provide the right of good choice.
- "(2) Hear the voice of the individual in making decisions about their life.
- "(3) Change the language to focus on abilities; focus on supports, not services.
 - "(4) Provide person-directed planning.
 - "(5) Provide fully portable, individualized funding.
 - "(6) Provide the supports needed.
- "(7) Supported decision-making: Let me decide the help I need.
- "(8) Support for networks: It is important to have people around you to help build a life in community. Remember, I am not disabled; I am differently abled and I can do many things. I just need help to do them.

"I would like to share with you one last thing—my poem."

The poem is also inside the Walk a Mile in My Shoe flyer that you received; it's in the centre there. A reminder about the Walk a Mile in My Shoe: It's on September 13 and it's interaction for awareness for people who are differently abled. We would love it if anyone could attend.

I'll just read the poem.

The Chair (Mr. Vic Dhillon): Can you read the date for the Walk a Mile?

Mr. Arnold Row: September 13, 2008.

This is the poem that Bill wrote. I'll do well to get through it without getting choked up:

"Understanding People

"A set of standards by which to judge to their friends, they give a nudge,

"When they see me come their way they stop and walk the other way,

"Or even worse, they stop and stare as if I'm stupid and unaware.

"If only they could know that I care how people view me; it's just not fair.

"I feel the very same as others do; they should try and walk in my shoe.

"Life's not easy when the body that you own was given to you broken down.

"They may be mean, they may be cruel, they may be bad,

but most of all, they just don't understand.

"With some time and special guidance we can have a great alliance.

"For an hour or for a day,

we all need friends along the way,

"So when you see me come along, try not to focus on what is wrong.

"I am a person just like you

who needs and deserves a good friend too.

"Just walk beside me straight and tall and be the friend that I can call when I am lonely and afraid.

"Just remember what I've said:

All you need is to understand.

"Do not judge; just take my hand."

Written by Bill Hiltz.

Sign language.

Mr. Arnold Row: Bill would like to thank you. Thank you very much.

The Vice-Chair (Mr. Vic Dhillon): Thank you for your presentation.

We'll wait a moment till Bill is adjusted.

INDIVIDUALIZED FUNDING COALITION FOR ONTARIO

The Vice-Chair (Mr. Vic Dhillon): Just to let you know, the next presenter is Ms. Joyce Balaz.

Ms. Joyce Balaz: Good afternoon. My name is Joyce Balaz. I'm a family home provider for Bill Hiltz, the previous presenter. Bill and I are very actively involved in the Individualized Funding Coalition for Ontario, as well as other like-minded organizations. So I appear here before you wearing a few hats. It was hard for me to decide which hat to wear as I make this presentation to you, but after long deliberation, because individualized funding is so important to Bill, I will present on behalf of the Individualized Funding Coalition for Ontario. But I must do so with Bill's issues in my heart, because it is his

strength that keeps me advocating for a better Ontario and Canada, one of citizenship and full inclusion.

As was mentioned with Bill's presentation, we didn't know if Bill was going to be able to prepare his presentation. I've tried to cover the issues raised at the last Individualized Funding Coalition for Ontario meeting that Bill identified as what he wanted to present, so please forgive the duplication. My presentation was finished before Bill was able to complete his, and please bear in mind that what Bill did prepare took many hours of very focused work.

I am thankful every day for the experiences, the learning, the understanding, the many people, the joy and the love that Bill has brought into my life. It is through these experiences that I have gained the courage to speak with you today and to pass on to you what I have learned over the past 18 years of knowing Bill and over the past seven years of working with the Individualized Funding Coalition for Ontario.

"The Individualized Funding Coalition for Ontario"—I may say "IFCO" to shorten time—"supports the self-determination of persons with disabilities. We believe that all people should have the control over decisions concerning where they live, with whom they live, with whom they associate, and how they spend their lives. In order to achieve this we recognize that Ontario must develop a system of funding whereby the person requiring assistance, supported as appropriate by family and/or significant others, has access to and control over the funds allocated for his/her supports." That comes from the accord the Individualized Funding Coalition members must sign.

One key thing that I have learned is that Bill is not disabled; he is differently abled. He has taught me so much. Therefore, throughout this presentation I have endeavoured to be mindful of my language and wherever possible changed the term "developmental disability" to "diverse developmental ability."

Because of some very unfortunate circumstances relating to Bill's supports, Bill and I found it necessary to reach out to the larger community, and as such we became involved with the Individualized Funding Coalition for Ontario; Family Alliance Ontario and London Family Support Network. Most recently, as part of our advocacy, we've worked with others from similar-minded organizations such as the provincial ad hoc working group on Bill 77.

That position paper was submitted at the hearings yesterday. We find that the recommendations from each of the groups we are associated with are quite similar, as they are derived from the same sound values and principles of citizenship and full inclusion in society. These values and principles have fuelled our advocacy over the past seven years. We therefore wish to endorse the recommendations made by the groups mentioned above.

We wish to applaud this government for acknowledging that there are many barriers in society that prevent persons with differing abilities from being fully included in society. There is no doubt that legislation is necessary to help bring down these barriers; however, that will still not ensure full inclusion.

One cannot legislate understanding and acceptance. That can only be accomplished through first-hand experience. In the words of Judith Snow, the first person in Canada to receive individualized funding for personal supports, a past co-chair of the IFCO, an author, speaker and advocate for inclusion whose work is recognized and sought after internationally: "Society will change when I am in it."

In May, the Parliament of Canada unanimously called upon the Canadian government to ratify the UN Convention on the Rights of Persons with Disabilities. However, many of the elements are under provincial jurisdiction. By including key elements in this proposed legislation, which would allow Canada to ratify the convention, the government of Ontario will be seen as a champion for the rights of persons with disabilities.

Bill and his support network have been strongly advocating for individualized funding for Bill since 2002. It's now 2008. That advocacy was assisted by the diligent efforts of the IFCO.

The IFCO has been very actively working with the ministry to ensure that the key elements necessary to make individualized funding a reality in Ontario become part of the transformed system. The coalition has been involved in expert policy forums and small working groups, has made submissions at every stage of the transformation process, and has produced research to support the positive outcomes made possible with individualized funding. They produced a person-directed planning guide which was made available for people applying to the Passport program.

We commend the ministry for listening to the many individuals in Ontario who have been asking for individualized funding. I believe it's about 20 years they've been working at it. We applaud the government on its efforts to transform the system; to move from a welfare-based service model to one which is citizenship-based.

However, the proposed legislation does not include many facets that are vital for ensuring successful individualized funding and full inclusion in society. Key elements that need to be included in this legislation are:

—the right of choice and self-determination;

—ensuring the voice of the individual is truly heard; so often we make decisions for them because we think it's easier or it's right, but we need to really listen;

—the right to be actively involved in development and decision-making with regard to policies and regulations:

—positive language that speaks to ability, not disability;

—provision of supports necessary for individuals to access already existing services;

person-directed planning for a whole life;the right of supported decision-making;

—adequate funding that is flexible and fully portable;

—provision of supports for autonomous groups and networks to enable community building to help build an inclusive and accessible Ontario;

- —ensure equal funding for both direct-funding and service-provision models;
 - -ensuring that processes are not discriminatory; and
- —a guarantee that processes are free from any conflict of interest.

While I cannot speak of our experience to all of these key elements in the time allotted, I will speak to those that are most important for Bill, as he is my first priority. For the legislation to be effective in promoting inclusion, the language of the bill must be more positive. It must speak to abilities rather than disabilities; it must focus on supports rather than services. Supports enable inclusion, while services tend to segregate. The name of the bill must be more reflective of the vision of a citizenship-based system of supports. A recommendation would be, "An Act to enhance the social inclusion of persons who have diverse developmental abilities, to repeal the Developmental Services Act and to amend certain other statutes."

This legislation should include a preamble clearly reflecting the vision and principles of the transformation process guided by citizenship, including access, rights, full participation and being valued as an equal member of society. This would proclaim the social change intended by the legislation.

To promote citizenship and full inclusion, the legislation must ensure that there is access to the supports necessary to participate in the community, such as person-directed planning, which focuses on strengths and abilities, provides for a seamless transition through life's known changes, responds to emergency, life-altering situations, and is proactive, thus preventing crisis situations from arising. It must be ongoing and available to all who are deemed eligible.

This is essential to enable an individual to experience meaningful participation in their chosen community. It is through this planning that an individual will decide how best to access those required supports. As such, it must be whole-life-based and independent of direct service provision.

Person-directed planning will also enable the individual to gather around them the networks of support that they require to help them as they participate in society. The use of a good facilitator/planner will assist with this process, as it takes time and effort to build a supportive network. It would serve the ministry well to include supports for support networks and autonomous groups to enable them to help build an inclusive and accepting Ontario. Building natural relationships with others in community will only be achieved by being a part of that community. This will help build and maintain the support network. This support network can then assist the individual to make the decisions that affect their lives.

In order to provide for full citizenship for people with differing abilities, it is important that the legislation include supported decision-making, which has been a viable alternative to substitute decision-making in Canada for over a decade. Supported decision-making

has been adopted into international law under article 12 of the UN Convention on the Rights of Persons with Disabilities. It is highly recommended that Bill 77 include provisions to recognize the legal capacity of all people and provide for supported decision-making in order to ensure that people can enjoy their legal capacity.

In the blueprint for transformation, Opportunities and Action, the plain-language version talks about flexible and portable funding. It was the third of the six big ideas of the vision of a new system of delivering supports. It talks about portability, and you've heard it time and time again, I'm sure. However, this key element is not in the

proposed legislation.

The absence of fully portable, flexible funding from this legislation has us very worried. In Bill's situation, he and his support network have worked diligently to ensure that Bill controls his own life and makes the decisions affecting his life. However, one piece is sadly missing: that of being able to use the agency of his choice, because his funding is tied to a specific program. We have had many conversations with ministry officials and with our MPP, Khalil Ramal, about trying to get those things changed. We have been told that we should be able to take Bill's funding to an agency of his choice under the transformed system, and the timelines given are very close to the present. This would provide the ultimate in choice and control for Bill.

The legislation must ensure that there is adequate funding available to purchase those supports necessary to participate in community life. There must also be a guarantee that both the new direct funding model and the current agency-based system are funded equally. The IFCO has been asking that a portion of any newly allocated funding be directed towards individualized funding models; however, while there was an allocation of funding made to the agency-based service sector, there was none to either the special services at home or Passport programs in 2008. There's a lot of inequity there.

We recommend that the sections relating to waiting lists and prioritization be removed, as they are both discriminatory. Their existence clearly demonstrates that the ministry is well aware of the fact that the sector is seriously underfunded and that people are currently waiting and will continue to wait for service or funding

to support them in the community.

We see the entire section on application centres as another major concern. Entrenching all of the functions in legislation will not allow for the new system to evolve. With all of the processes in one spot, it just creates an inherent conflict of interest. You can't allocate and assess and check out how the service provision is going fairly. Many of the policies and regulations relating to the application centres are currently being developed, but without the voice of the individual in that process. We acknowledge that there has been public input on these various aspects; however, as stated before, when we look at Bill 77, it's obvious that it has not been heard loudly and clearly enough.

The assessment process based on a needs scale without first considering what that individual needs to be

able to participate fully in that process leaves the door wide open for the assessment to be done about the individual without their voice being heard. The allocation of funding will take place based on a needs scale, with a certain cap on funding. There has been no consideration of what the individual truly needs to be a full participant in their chosen community. Again, the voice is missing.

In order to determine what supports a person will need to be able to fully participate in community, many determinants must be considered. This cannot take place in a single assessment session. It's taken me years to know what Bill needs. Life in the community is different for each and every individual. Their needs are different, so how can a compartmentalized needs-based assessment scale truly provide the necessary information on which to base an allocation of funding for community participation? It simply can't.

Implementing person-directed planning with facilitation once eligibility has been determined enables people to discover that they may be able to access alreadyexisting resources and supports in the community, thus reducing government dependence and enabling an

accepting and inclusive Ontario.

The ministry can go a long way in enabling an inclusive Ontario by looking at how best to provide supports to individuals to access already-existing services. This is more cost-effective, as changes that are made to existing services to accommodate the needs of persons with disabilities would also serve to assist all members of society. I'm thinking of parents with strollers; I'm thinking of delivery people. Many, many people would benefit from having these accessibility issues addressed, like public transit that's fully accessible, family washrooms—think about having to go as a mixed-gender group into a specific washroom; it's not very niceramps instead of stairways so that everybody can gain entry, not just people who can walk up stairs. Not only does this serve to build an inclusive society; it negates the stigma of being "special" and requiring special services. Bill would be the first person to say, "I am not special. I am a person just like you."

Understanding will go a long way in helping to build an inclusive Ontario. Let's start to gain that understanding by listening to those who know first-hand what it is they need to be a full, participating member of society.

1540

Yesterday, today and over the next two days, you as a committee will listen to various presentations. The decisions you make will live on in Ontario for many years. You will hear from service providers, union representatives, advocates, families, and/or support networks, but most importantly, you will hear from the individuals themselves. As you consider what you hear, the voice of the individual must be considered as the most important. The next is that of the family and support network as they continue to provide natural supports for the individual on a daily basis.

I look around; there's nobody with a diverse developmental ability on this committee, nor in the people

who have created the legislation and will develop the subsequent policies. While it is true we have been consulted—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much for your presentation.

Ms. Joyce Balaz: Can I just ask one more thing, please? When you consider what you're hearing, ask, "If I were a person with a diverse developmental ability, how would what this presenter is saying affect my life?" Only in that way can you make the right decisions.

The Vice-Chair (Mr. Vic Dhillon): Thank you very

Mr. Dave Levac: On a point of order, Mr. Chair: I noticed that it was a prepared document. If we could get a copy, I'd appreciate it very much.

The Vice-Chair (Mr. Vic Dhillon): Mr. Koch will get everybody a copy.

NEW VISION ADVOCATES

The Vice-Chair (Mr. Vic Dhillon): Our next presentation is from New Vision Advocates.

Welcome to the committee, sir. Good afternoon. If I could have your name for the record; you have 15 minutes.

Mr. Mark Anderson: Good afternoon to you too. My name is Mark Anderson. I am a director on the New Vision Advocates executive board. New Vision Advocates is a group of people with intellectual disabilities who advocate for ourselves and on behalf of others with intellectual disabilities.

I would like to begin by congratulating the Ontario government on its efforts in transforming developmental services and working to create a more inclusive society for all citizens. The proposed legislation looks to address a number of important issues of significance for services for people with intellectual disabilities. We believe, however, that important changes must be made to the bill that will enhance our ability to create a truly inclusive society.

I will focus our comments and proposed changes on the things we feel will help ensure that people who have an intellectual disability have full control over the decisions and activities that shape our lives and we are given the support needed to live as full citizens. While there are many issues, I would like to focus on the following three: the scope and purpose of the legislation; the inspections and operation; and the protections and appeals.

With respect to our first issue, we believe the legislation would benefit from the inclusion of a preliminary introduction aimed at describing the social change that is intended by the legislation. The preliminary introduction that we have recommended draws on the principles, values, goals and mission of developmental services and statements made in Opportunities and Action.

There are precedents for the inclusion of preliminary introductions in legislation in Ontario. The most recent precedents are the Long-Term Care Homes Act and the Human Rights Code. Other acts that have included a preliminary introduction are the Ontarians with Disabilities Act and the Family Law Act.

New Vision Advocates members have been working hard for the past three years to educate our community about the importance of equal citizenship for all. We ask the government to support us in our work, and to do this by including the following statements in the preliminary introduction to Bill 77:

People who have an intellectual disability are equal and valued citizens of the province of Ontario and enjoy the full rights of citizenship, such as access to justice, health care, education, transportation, and other benefits of citizenship.

Many people who have an intellectual disability experience barriers in society that prevent them from enjoying their rights of citizenship and hinder their full participation in the social and economic life of the province on an equal basis with others.

Supports that are provided to people who have an intellectual disability are intended to enhance opportunities to enjoy the benefits and fulfill the duties of citizenship and to participate in the social and economic life of the province on an equal basis with others. Paid supports that are provided to people who have an intellectual disability should assist a person to strengthen relationships and should build upon and facilitate the supports that are available through community involvement; they should not replace them.

A person who has an intellectual disability has the right to make decisions about things that affect his or her life.

The second issue we feel strongly about is the right of adults with intellectual disabilities to feel secure in their own homes and to have the same right to privacy as every citizen. As advocates and people who receive support, we have fought hard to have our homes viewed as homes, not as someone's workplace. We feel that regardless of the classification a person's residence falls into, such as supported group living residences or intensive supported residences, it is first and foremost their home and must be treated as such. There should be no provision that allows an official to enter that home without the consent of the person or persons living in that home. If no consent is given, then a warrant must be obtained based on reasonable assumptions of wrongdoing. We feel that allowing someone to enter a home just because it is classified as a group living situation will be treating people's homes as mini-institutions.

We must recognize that this issue has been successfully addressed elsewhere. Ontario's new Long-Term Care Homes Act, subsection 146(2), reads: "No inspector shall enter a place that is not in a long-term care home and that is being used as a dwelling, except with the consent of the occupier of the place or under the authority of a warrant."

We recommend that under subsection 27(3), the words "unless the residence is a supported group living residence, an intensive support residence or a prescribed

type of residence" should be deleted and replaced with the following: "except with the consent of the occupier of the residence or under the authority of a warrant."

The amended section would read: "The power to enter premises under subsection (2) shall not be exercised with respect to a residence for persons with developmental disabilities that is owned or operated by a service agency except with the consent of the occupier of the residence or under the authority of a warrant."

In subsection 27(4)(d), delete the words "a residence referred to in subsection (3) or of other" and "residents or other."

The amended subsection would read:

"(d) in the case of an inspection of premises in which services are provided to persons with developmental disabilities, examine the condition of the premises and its equipment and inquire from any person present in the premises, including persons receiving services from a service agency, about,

"(i) the adequacy of the staff,

"(ii) the range of services provided in the premises, and

"(iii) any other matter considered relevant to the provision of services to persons with developmental disabilities; and."

The last issue that we would like to address is that a person's direct funding agreement should never be cancelled for reasons of misuse where direct funding was being managed by someone other than that person, including a family member or guardian, and the person is found not to have played a role in the misuse. A person should not be punished, through the withdrawal of his or her supports, because of mistakes that were made or wrongful actions that were undertaken without his or her consent.

Our recommendation is to add a clause to subsection 11(9) which would state that if a person who was benefiting from supports provided under an agreement which was terminated under section 11(9) was not responsible for the decisions which caused the termination of the agreement, a new arrangement should be sought for the management of the funds and for the continuing provision of services.

We strongly urge the committee to address the issues of scope and purpose of the legislation, inspections and operation, and protections and appeals in order to ensure that the legislation is effective in addressing the needs of people in Ontario who have an intellectual disability.

Thank you for your time.

1550

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We'll begin with the government side; about three and a half minutes each. Mr. Ramal.

Mr. Khalil Ramal: Thank you, Mark, for your presentation. You did an excellent job.

Mr. Mark Anderson: Thank you, Khalil.

Mr. Khalil Ramal: How's everything? Good?

Mr. Mark Anderson: Yes.

Mr. Khalil Ramal: Okay. I have a question for you. You mentioned the inspection. Bill 77 proposes that an inspection will be done without notice. You like that?

Mr. Mark Anderson: Yes. We've just asked that if the person doesn't consent, a warrant be obtained because it is, first and foremost, their home. Their privacy should be respected as such.

Mr. Khalil Ramal: But you, as residents, live in the house, and somebody is looking after you from a service provider. If that service provider is abusing you for some reason or not looking after you very well for many reasons you mentioned, do you think it should be an inspection without notice to protect you and make sure everything is—

Mr. Mark Anderson: Yes. It should be to protect the person because it is, like we have said, first and foremost their home. It doesn't matter what the classification is; it is their home.

Mr. Khalil Ramal: And I agree with you: You shouldn't lose your funding if somebody made a decision on behalf of you or made a mistake. You shouldn't be affected. It's a good point and I support that. I wish you all the luck and thank you very much for coming before us. You did an excellent job.

Mr. Mark Anderson: Thank you.

Mr. Khalil Ramal: I'm still waiting for your invitation to your house.

Mr. Mark Anderson: Yes, I'll have to e-mail that one to you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. The official opposition.

Mrs. Christine Elliott: I'd also like to thank you very much for your presentation, Mark. I would just like to make a comment that seems to be in common with your presentation as well as Bill's and Joyce's before, and that's with respect to the need to recognize the social inclusion that's meant to come from this legislation as well as the supports and the financial part of it. I think that if we're to achieve the full transformation, the comments that I've been hearing from many people indicate that it's not just a transformation with respect to the system that's presently in operation, but it's a transformation of the way our entire society sees people who have different abilities. I think that that's something we really need to concentrate on and look through that prism, as we look at what we want to achieve with this legislation, because until we can change or shift people's way of thinking to think about the abilities everybody has, we're not going to get it. We need to look at that and figure out how we can get people generally to understand what needs are so everybody can participate. Then we're going to have it.

Thank you very much for making a big contribution to that.

Mr. Mark Anderson: You're welcome.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much, sir, for your presentation.

COMMUNITY LIVING LONDON

The Vice-Chair (Mr. Vic Dhillon): The last presentation is from Community Living London: Mr. Hewett.

Good afternoon and welcome to the committee. You have 15 minutes, if you can just identify yourself for the record.

Mr. Jim Hewett: Good afternoon. My name is Jim Hewett. I've been a volunteer member of the board of directors of Community Living London for the past eight years. I am also a parent of a young man who has an intellectual disability.

I am aware that you have already heard from several community living agencies today, and I am confident that you are familiar with the many roles we play in our respective communities. Here in London, community living touches the lives of 900 people with intellectual disabilities and their families every year.

I want to thank you for the opportunity to speak to Bill 77, the proposed legislation for developmental services. I would like to begin by recognizing the Ontario government for its efforts in transforming developmental services and working to create a more inclusive society for all citizens.

We believe, however, that important changes should be made to the bill that will enhance our ability to create a truly inclusive community. Community Living Ontario has already submitted a list of 19 recommendations to the committee, and Community Living London endorses those recommendations.

Today, we will focus on comments and proposed changes regarding three of the recommendations which have particular significance to Community Living London and its constituents: the proposed application centres, which is in section 8; the issue of immediate takeovers in sections 30 and 31; and the right of people with intellectual disabilities to live in peace and security, which was not addressed in Bill 77.

With respect to the establishment of application centres, we believe that in order to address potential conflicts within the application process and to build on effective processes currently being used, the legislation should make clear that the various elements might be delivered by different bodies within a given region. The various bodies responsible for the administration of the application process must be connected in such a way as to ensure easy access for people applying for support or eliminating any potential for conflicts. To this end, the legislation should refer to an "application process," rather than "application centres." Allocations of funding should remain the direct responsibility of government.

Here in London, various service agencies work cooperatively throughout the CSCN, the Community Services Coordination Network. We do not want to see collaborative processes developed with CSCN discarded and replaced by a new application centre. Further, a person with an intellectual disability should not have to make application for services, have their needs assessed, receive an allocated amount of service, and have those services evaluated by one entity. While these elements need to be coordinated, there is too much room for conflict having all of these elements provided by one entity.

This matter can be addressed in the legislation by considering the following additional changes.

Subsection 7(2) should read, "A director may issue policy directives related to the application process with respect to the following matters."

Subsection 8(3) should read, "Every application process shall provide a single point of access to services funded under this act for persons with developmental disabilities residing in the geographic area described in the application process' designation."

Other references to application centres should be changed accordingly to reflect the idea of an application process rather than an application centre.

With respect to our second matter, immediate takeovers, we recommend that the powers of the ministry extend only to the capacity to assign a manager and reassign responsibilities related to services described in ministry contracts. These powers should not allow the ministry to interfere in the governance of community corporations, and as such, should not extend to the management of the affairs of a service agency, as described in subsection 30(1).

The contracts that are held between the ministry and local associations to provide services are subject to the conditions of Bill 77 and the conditions of the contract. However, local associations hold contracts with a wide variety of stakeholders other than the ministry. At Community Living London, we have contracts with and receive funding from the government of Canada, the Ministry of the Attorney General, the Trillium Foundation, the Ministry of Health, United Way and the Ministry of Children and Youth Services, and we have hundreds of dollars in sponsors.

While the government holds contracts with local associations, they enjoy certain benefits that come from the fact that the local associations are made up of volunteers and persons who share a common concern. Much more than running a business, a local association shares the aim of building inclusive communities. Powers of government over associations and actions may be addressed to two main concerns for harm: funds, and health and safety. Actions which are taken based on these powers should be addressed only to the cessation of that harm and correction of it.

This matter can be addressed in the legislation by considering, in subsection 30(1), deleting the words "affairs of the service agency or application centre" and replacing them with "contracts that are held between the service agency or application centre and government." The amended section would read, "Upon notice to a service agency or an application centre, the minister may, based on grounds set out in subsection (2), appoint a person to take over and manage the contracts that are held between the service agency or application centre and government."

1600

In section 31(1), delete the words "affairs of a service agency or application centre" and replace them with "contracts held between a service agency or application centre and government," and add the words "over that contract," at the end of the clause. The amended section would read, "If a manager is appointed under section 30 to take over and manage the contracts held between a service agency or application centre and government, the manager has all the powers of the board of directors of the agency or centre, as the case may be, over that contract."

The third recommendation I wish to make is that Bill 77 needs to address the rights of persons with intellectual disabilities to live in peace, harmony and security. We can no longer allow others to have the legal authority to disrupt and intimidate people in their own homes, as occurred during the labour strikes in the summer of 2007. Community Living London experienced a strike which lasted almost nine weeks. During this time, we were forced to shut down many of our services and focus our resources on providing essential supports to individuals in supported living environments. The individuals who lived in these supported living environments were forced to endure the continuous presence of picketers in front of their homes. The picketers were often loud, threatening, and extremely intimidating. To quote a person with a disability who experienced this first-hand, "The staff were yelling and swearing. They were right in front of my home. It was so loud that no one could sleep. The neighbours couldn't sleep either." We need to do more to protect vulnerable citizens from this type of action.

We are therefore recommending that developmental services be identified as a no-strike sector and that provision be established within the legislation to create an arbitrated settlement mechanism to address future labour disagreements. Provisions such as those found in the Hospital Labour Disputes Arbitration Act should be included within Bill 77 with the aim of ensuring that the disruptions to people's homes and lives that occurred in 2007 never occur again.

The concept of essential services is well established in the context of labour relations where the workers provide services that cannot reasonably be withdrawn because of the extreme risk of harm such job action would impose upon citizens. Prohibiting strikes in police and fire services is the most common instance where strikes are simply prohibited. In Ontario, the Crown Employees Collective Bargaining Act provides for a similar approach based on the mutual identification by labour and management of those elements of any particular collective agreement that constitute essential services that by agreement would be maintained during any work stoppage by other employees in the bargaining unit. In another precedent, services provided by Community Living in Manitoba are subject to the provincial Essential Services Act.

Declaring the developmental services sector a noright-to-strike sector would ensure that such a violation of the rights of the people who live in these homes wouldn't happen again. This matter can be addressed in the legislation by considering the following addition or change: The bill should be amended to incorporate the provisions of the Hospital Labour Disputes Arbitration Act, HLDAA, with respect to arbitrated settlements into Bill 77. Alternately, a Developmental Services Arbitration Act could be considered, with provisions that approximate those under HLDAA.

I strongly urge the committee to address the issues of application centres, agency governance, and the right of people with intellectual disabilities to live in peace and security in order to ensure that the legislation is effective in addressing the needs of people who have an intellectual disability in Ontario.

Thank you for your time. We would be happy to answer any of your questions. I also have copies of my presentation, as well as the 19 points from Community Living Ontario.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. A little bit over two minutes each. Ms. Jones from the opposition.

Ms. Sylvia Jones: Thank you, Mr. Hewett. You've raised many of the points that other presenters have come forward with in the last couple of days. I think it's telling that, whether you're talking from a community living organization, as a planner, a family member or an individual, there are some consistent messages that are definitely coming through. I hope our committee gets the message.

Mr. Jim Hewett: I hope they do too.

The Vice-Chair (Mr. Vic Dhillon): Thank you, Ms. Jones. Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. As my colleague mentioned, the same points were mentioned at different times yesterday and today, but the most important things people mentioned were an application centre and a processing centre. Can you give me your perspective on those, the difference between an application centre—

Mr. Jim Hewett: An application centre as opposed to a processing centre? There are too many variables in here. There are too many agencies involved with the supports for the individual to have one particular centre decide on what supports are going to be required and what they're going to get. It just doesn't make sense. In the city of London alone, we have so many different agencies providing supports. We all work together in providing those supports to individuals. We cross-provide supports, so to have a particular centre just determining what that individual is going to receive doesn't make sense, and we don't like that idea at all.

Mr. Khalil Ramal: So how can we, as a government, make sure there will be one standard applied across Ontario if we have a really different model and different applications? How, in your view, can we manage the applications—

Mr. Jim Hewett: We have the CSCN right now, which provides a sort of starting—a coordinating network. But to say that they're going to then make the deci-

sions for all the agencies or to say that only this agency could provide a service is not the way that it's going to meet the needs of a person with an intellectual disability. There are too many variables involved.

The Vice-Chair (Mr. Vic Dhillon): Go ahead, Khalil. You have over a minute.

Mr. Khalil Ramal: As you know, at the present time, one individual or one family applies four times. That's why the waiting list is so huge. So to make sure we have one centre coordinating between all of them—that's why the bill proposes an application centre, to make sure all the people go to one centre and coordination is in place, in order to see how we can service the people across the province.

Mr. Jim Hewett: I certainly want to have a strong hand in however this process is going to come about to ensure that the needs of a person with an intellectual disability are going to be met within the community. I'm sure you've heard that funding is a major issue. That's just one part of it, to make sure that—we have waiting lists because we have inadequate funding within the sector. We can reduce waiting lists when funding increases. But just to put an application centre: in and say, "There are only so many dollars to go around, so unfortunately you're down at number 250 on the list, because we don't have enough money"—that doesn't address the needs of individuals with an intellectual disability. The needs are now; the needs are in the community. We need a lot of things, not just a process; we need additional funding as well.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. Mr. Levac.

Mr. Dave Levac: On a point of order, Mr. Chairman: Today, from this deputation, and from others yesterday, we've heard about the strike-free zone, no-right-to-strike sectors and other pieces of legislation. I'm wondering if we could have the legislative research do a small project for us, and I'm sure that the members opposite would agree to this, on where such legislation exists in the different sectors in Ontario; where in the rest of the provinces in Canada this type of legislation takes place and what it's used for; the declaration of essential services; and the containing of or changing of strike

provisions in sectors that are dealing with third party individuals. So I'm looking for support from the committee and the members if that piece of research would be appropriate for us to have before clause-by-clause.

Mrs. Christine Elliott: That would be most helpful. We were going to ask the same request, so thank you.

The Vice-Chair (Mr. Vic Dhillon): Research, do we have that?

Ms. Elaine Campbell: Yes.

Mrs. Christine Elliott: Excuse me, Chair?

Mr. Dave Levac: Did I start the ball rolling here?

The Vice-Chair (Mr. Vic Dhillon): Ms. Elliott.

Mrs. Christine Elliott: I do have one further request of Ms. Campbell, if I may, Mr. Chair.

The Vice-Chair (Mr. Vic Dhillon): Absolutely.

Mrs. Christine Elliott: One of the groups spoke about the need for a person or an organization to look into issues with respect to abuse and neglect. There was some discussion about the role of the official guardian. I was hoping that Ms. Campbell could help us with determining exactly what the mandate is of the official guardian, if they would be appropriate to be of assistance in this circumstance or not; I am just not sure. If we could get that assistance, that would be helpful as well.

The Vice-Chair (Mr. Vic Dhillon): We'll get that to everybody.

Mr. Khalil Ramal: On a point of order, Mr. Vice-Chair: On behalf of all the presenters who came before us today, I want to thank the committee for coming to London and listening to all of the wonderful organizations.

The Vice-Chair (Mr. Vic Dhillon): And what are you doing for us, since we came to London?

Mr. Khalil Ramal: Well, Community Living London is going to invite you for supper tonight if you stay in London.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much, most of all, to the presenters for your presentations. Thank you, committee and staff, as well.

This committee stands adjourned till tomorrow morning at 9 a.m. in Timmins, Ontario.

The committee adjourned at 1610.





STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke–Lakeshore L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale–High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London-Fanshawe L)

Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)

Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mrs. Christine Elliott (Whitby-Oshawa PC)

Ms. Sylvia Jones (Dufferin-Caledon PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Ms. Leeanna Pendergast (Kitchener–Conestoga L)

Mr. Michael Prue (Beaches-East York ND)

Mrs. Maria Van Bommel (Lambton-Kent-Middlesex L)

Clerk / Greffier Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer, Research and Information Services

CONTENTS

Wednesday 6 August 2008

Services for Persons with Developmental Disabilities Act, 2008, Bill 77, Mrs. Meilleur / Loi de 2008 sur les services aux personnes ayant une déficience intellectuelle,	
projet de loi 77, M ^{me} Meilleur	SP-14
Mr. Fred Blake	SP-14
Autism Ontario	SP-149
Canadian Union of Public Employees, Local 3943	SP-15
Canadian Union of Public Employees, Local 4370	SP-153
Community Living Tillsonburg	SP-155
Community Living Chatham-Kent	SP-157
People First Tillsonburg	SP-160
Community Living St. Marys and Area Ms. Brenda Mitchell	SP-161
Ensemble	SP-163
Lifelong Care Givers Support Group of Sarnia-Lambton	SP-165
Woodview Manor Mr. Paul Cano	SP-168
Ms. Sharon Sharp; Mr. Steve Sharp	SP-170
Family Alliance Ontario	SP-172
Community Living Essex County. Ms. Nancy Wallace-Gero	SP-174
Middlesex Community Living. Ms. Sherri Kroll	SP-176
Ms. Kathy Szuba	SP-179
Ontario Agencies Supporting Individuals with Special Needs; Woodstock and District	51 1/2
Developmental Services	SP-181
Windsor-Essex Family Network Ms. Michelle Friesen	SP-183
Windsor Essex Brokerage for Personal Supports	SP-185
Mr. Bill Hiltz; Mr. Arnold Row	SP-187
Individualized Funding Coalition for Ontario	SP-189
New Vision Advocates	SP-192
Community Living London Mr. Jim Hewett	SP-194

Publication



ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Thursday 7 August 2008

Journal des débats (Hansard)

Jeudi 7 août 2008

Standing Committee on Social Policy

Services for Persons with Developmental Disabilities Act, 2008

Comité permanent de la politique sociale

Loi de 2008 sur les services aux personnes ayant une déficience intellectuelle

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE

STANDING COMMITTEE ON SOCIAL POLICY

LA POLITIQUE SOCIALE

Thursday 7 August 2008

Jeudi 7 août 2008

The committee met at 0901 in the Days Inn, Timmins.

SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES ACT, 2008

LOI DE 2008 SUR LES SERVICES AUX PERSONNES AYANT UNE DÉFICIENCE INTELLECTUELLE

Consideration of Bill 77, An Act to provide services to persons with developmental disabilities, to repeal the Developmental Services Act and to amend certain other statutes / Projet de loi 77, Loi visant à prévoir des services pour les personnes ayant une déficience intellectuelle, à abroger la Loi sur les services aux personnes ayant une déficience intellectuelle et à modifier d'autres lois.

The Vice-Chair (Mr. Vic Dhillon): Good morning, everybody. Welcome to the hearings on Bill 77.

COMMUNITY LIVING TIMMINS

The Vice-Chair (Mr. Vic Dhillon): The first presenters today are from Community Living Timmins, if they can come up. Welcome to the committee. You have 15 minutes, and if you could state your name for the record, that would be really appreciated. You may begin.

Ms. Johanne Rondeau: Thank you. Good morning. My name is Johanne Rondeau. I'm the executive director for Community Living Timmins Intégration Communautaire. With me today is Brenda Beaudoin, the quality enhancement coordinator for Community Living Timmins. We thank you for the opportunity to speak to Bill 77, the proposed legislation for developmental services.

The Ontario government has been engrossed in transforming developmental services and working to create a more inclusive society for all citizens. Bill 77 is reflective of that, and its importance in setting standards that will stand for many years cannot be underestimated.

We also wish to offer our support to Community Living Ontario, which has done an excellent job of critiquing Bill 77 in its entirety. We wholeheartedly approve of all recommendations presented to you by Community Living Ontario.

Ms. Brenda Beaudoin: We will focus on the following matters: legal capacity and decision-making/enhancing the voice of the individual, recommendation 3;

person-directed planning, recommendation 4; living in peace and security, recommendation 9; and protections and appeals, recommendation 10.

I quote Community Living Ontario: "We recommend that person-directed planning be added as a funded element that is available to all those deemed eligible for supports and services.... Person-directed planning should not be carried out by the application centre but by individuals or agencies that are recognized as qualified planners according to standards that should be set through a regulation or policy directive."

Honourable ladies and gentlemen, there has been an explosion around the world in person-centred or person-directed planning. At the heart of this movement is the Learning Community, a group of educators, researchers, parents, writers, and various agency personnel, as well as people we support, who are trained to use and contribute to the growing body of tools that assist with person-directed planning. I am proud to be a member of this group, and have been trained as a trainer.

Standards for excellence in planning should come from the Learning Community. Trainers have been working throughout Ontario for years to assist agencies in getting started on this path. As well, members of the Learning Community have worked for MCSS in planning for people leaving the remaining institutions for community life. The recognition is there.

Person-directed planning must be recognized and funded in Bill 77. It ensures that those we support have a voice. The person-centered planner provides the accompaniment that lets the voice be heard in full harmony.

Legal capacity and decision-making/enhancing the voice of the individual, recommendation 3:

Again, I quote: "It is recommended that Bill 77 ... recognize the legal capacity of people who have an intellectual disability and provide for supported decision-making.... The concept of supported decision-making ... has recently been adopted into international law under article 12 of the UN Convention on the Rights of Persons with Disabilities. Acknowledging and supporting the legal capacity of the individual can be the most transformative step taken within this legislation." I took out the word "perhaps" because, in my mind, it is the most transformative.

My role as an advocate here is to open your hearts to the humanity of people with intellectual disabilities. You, as the standing committee of the Legislature, will make changes to the bill. You, as the overseers of this legislation, have the awesome responsibility of speaking through this bill for a group that is the most politically under-represented in the world: those with intellectual disabilities.

You must use your power to be the promoters of equality at the leading edge, the protectors of those whose voices have not yet been heard, and the purveyors of possibilities. You must recognize people with intellectual disabilities as a group that historically has had to surrender control over their lives, finances and dreams for a future that belongs to them.

I implore you to take a leap into the future with Bill 77. Review the UN Convention on the Rights of Persons with Disabilities, and bring this legislation up to its standards. You will be setting an example for other ministries, provinces, governments and countries.

Living in peace and security, recommendation 9: We can no longer allow others to have the legal authority to disrupt and intimidate people in their own homes, as occurred during the labour strike in the summer of 2007. Community Living Ontario, supported by Community Living Timmins, recommends that the Developmental Services Act be identified as a no-strike sector and that provisions be established by the legislation to create an arbitrated settlement mechanism to address future labour disputes and disagreements. Provisions such as those found in the Hospital Labour Disputes Arbitration Act should be included in Bill 77 with the aim of ensuring that the disruptions to people's homes and lives that occurred in 2007 never happen again.

Many people supported by seven Community Living agencies endured strikes and picketing which targeted their homes. Supported people were confined to their homes or forced to leave altogether. They were frightened and confused. Many neighbourhoods were disrupted by picket lines, porta-potties, shouting megaphones, and whistles. In some locations, this occurred at all hours of the day and night.

We recommend that you follow the example of Manitoba, where services provided by Community Living Manitoba are subject to the provincial Essential Services Act. Thank you, ladies and gentlemen.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We'll start with—

Mr. Dave Levac: She's got more, Vic. The Vice-Chair (Mr. Vic Dhillon): Oh. 0910

Ms. Johanne Rondeau: Sorry about that.

I'd like to move on to recommendation 10, protections and appeals. We feel that measures must be in place to ensure that individuals and families are able to purchase quality supports within the community. Such measures must ensure provisions through which workers available for hire through direct funding can be paid a reasonable wage comparable to that of workers in service agencies, that there is also an expectation of quality in the supports offered and provided by these workers and that adequate training is made available to all workers in this sector. Workers should also be expected, at a minimum, to undergo a criminal records check.

We should add a provision that when direct funding is provided, those receiving that funding would be required to pay any support worker they engage an amount in keeping with the hourly wages of the workers who work for service agencies. In addition, support workers contracted through direct funding should receive additional remuneration to make up for benefits that they would have as employees of service agencies such as health insurance, pension contributions, travel allowance, sick leave and paid vacation. Also, as mentioned before, at the very minimum, these employees must undergo a criminal records check.

Policy directives would have to be issued to the application centres from time to time informing them of the appropriate amounts to be paid to individuals and their families under direct funding agreements.

Over the past several decades there were serious wage disparities between those employed by service agencies and those employed by the ministry in the government-run facilities. Now that there is going to be another two-stream system for the provision of supports to persons who have an intellectual disability, it's very important to make sure that it does not lead to continuing and perhaps even more glaring disparities, depending on which stream is chosen by persons needing support and those who choose to make their livelihood as support workers.

Research does suggest that if the government does not play a key role in setting employment standards and wage guidelines, direct funding could lead to a low-wage sector where some workers can earn far less than others who are doing very similar work. Possibilities for error and injury, abuse, isolation and neglect increase when there is no governing body as there is no accountability for the supports provided. These are the requirements for training of new employees of Community Living Timmins Intégration Communautaire. There are no requirements for those workers hired privately at present.

I want to end this presentation with a poem written by a young lady who has received support from Community Living Timmins. Her name is Ashley.

Ashley's Poem
No matter who you are in life,
Helping others out in your day-to-day job
I know is very stressful.
But at the end result,
With a lot of patience,
You will have a chance to learn and grow
With the people you support.
Yes, at the beginning,
We are a cocoon.
Then we become different coloured
Butterflies
In the end.

Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. There's a little over a minute each, and we'll begin with the official opposition.

Ms. Sylvia Jones: Thank you, ladies. I appreciate your presentation. Brenda, you mentioned the Learning Community. Can you expand upon what that is and the role that they play within either Community Living Timmins or education?

Ms. Brenda Beaudoin: The Learning Community was established by Michael Smull, who works out of Oregon university. He was hired in the 1980s to depopulate institutions at that time. That's when he started working on person-centred planning. This has now grown worldwide, and Michael has been in Timmins, northern Ontario and southern Ontario several times. We've undergone training with them and are connected with them through the website and e-mail. We're involved in the worldwide movement and up-to-date learning as it occurs.

The Vice-Chair (Mr. Vic Dhillon): To the government side.

Mr. Dave Levac: Mr. Prue.

The Vice-Chair (Mr. Vic Dhillon): Oh, I'm sorry. Mr. Prue.

Mr. Michael Prue: Thank you. The request you made to have the workers deemed an essential service and their right to strike taken away—it's my understanding the last strike resulted because of the wage disparity. They were striking because they weren't making enough money. Is that—

Ms. Brenda Beaudoin: These strikes occurred in southern Ontario, so we don't have the details of that at this time, but that sounds correct, yes.

Mr. Michael Prue: It's a tough thing to take away one person's rights to give rights to someone else, which is what you're asking.

Ms. Brenda Beaudoin: No, sir, we are not—equality and dignity for all across the world, through the United Nations. People with intellectual disabilities have the right to peace and security in their own homes, whether workers come there or not. My 91-year-old mother has workers coming into her home. She would not be forced to dress in a T-shirt expounding labour issues, and I would suggest that this right should be equal to all people in their homes, wherever they live.

The Vice-Chair (Mr. Vic Dhillon): The government side?

Mr. Khalil Ramal: Thank you very much for your presentation. You mentioned many different elements. You talk about direct planning, which we never heard—this is our third day. Can you explain that? What do you mean by that, and what's the difference between direct planning, in your opinion, and an application centre? Why do you not want an application centre and you want to go to direct planning?

Ms. Brenda Beaudoin: The application centre will be collecting factual data to assist in determining what a person needs. Person-directed planning learns about the person—their personality, as well as their abilities, the support system around them—and they interview all of the support system around them, so that they gain all knowledge. The thing is to assist the person to have a

future that makes sense to them, on whatever level that may be. We have been totally amazed when we ask people what they wanted to do with their lives—the amazing stories that came out of that. Supporting them to get what they want on their own level has been very successful. Then the money that is funded by the government is used to assist them to reach their goals in their lives.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. If someone has a BlackBerry near the mike, I'd ask that you check and move it away from the mike. I know it was me yesterday. Joe, is that you?

Mr. Joe Dickson: It's off.

The Vice-Chair (Mr. Vic Dhillon): Okay.

Thank you so much for your presentation. We really appreciate it.

CHRISTY BARBER

The Vice-Chair (Mr. Vic Dhillon): The next presentation is from Christy Barber. I believe it's a teleconference.

Ms. Christy Barber: Yes, good morning. Can you hear me?

The Vice-Chair (Mr. Vic Dhillon): Good morning, Ms. Barber.

Ms. Christy Barber: Good morning to the panel in Timmins. I cannot hear you. I can hardly hear you at all. Can you hear me?

The Vice-Chair (Mr. Vic Dhillon): Yes, we can hear you. How's that now?

Ms. Christy Barber: That's fine.

The Vice-Chair (Mr. Vic Dhillon): Okay. Is that Christy Barber, just for the record?

Ms. Christy Barber: Yes, it is.

The Vice-Chair (Mr. Vic Dhillon): Okay, great. You have 15 minutes, Ms. Barber, and any time you don't use we'll divide up amongst the three parties. You may begin now.

Ms. Christy Barber: Good morning. My name is Christy Barber. I am a volunteer board member with Family Alliance Ontario. Family Alliance Ontario is an alliance of citizens that offers knowledge, tools and networking opportunities to individuals with disabilities and their families to assist them to realize a vision that includes having valued relationships, choice and control in their lives, and enables inclusion through meaningful contribution and participation in their communities.

As the people who live with the decisions made by the Ministry of Community and Social Services, we feel we have important information to share and the duty to speak up about the influences on the lives of our family members, especially as it pertains to new legislation. In addition to my comments and those made by Family Alliance members in London and Ottawa, I would like to say I'm in full support of the recommendations presented by the provincial ad hoc working group on Bill 77 in which we participated.

Family Alliance Ontario commends the Minister of Community and Social Services for updating the developmental disabilities act. It is our hope that this new act, Bill 77, will embed human rights and end injustice for persons with developmental disabilities. The transformation of developmental disabilities is to be guided by citizenship. Citizenship includes access, rights, valued status and full participation. We look to this legislation to be the foundation upon which the rights and citizenship of persons with developmental disabilities will rest.

Language and strategies in a bill, including a muchneeded preamble, should reflect the vision and principles of the transition process in which Family Alliance has had an influential role at the partnership table since 2004. The government indicated in its context for action that it would work with stakeholders to create a plan that would result in more self-reliant individuals and families supported by coordinated information, planning and services in their own community.

The new legislation aims to create an accessible, fair and sustainable system of community-based support. The word of choice is "support." My 32-year-old daughter, Nancy, a young woman with significant developmental and physical disabilities, accesses community-based support through a combination of agency-provided, residential support and direct-funded community participation support.

I would like to share with the committee our family's experience as it relates to some key aspects of Bill 77.

Nancy grew up with her three younger brothers, experiencing the fun and challenges of any large family, and was involved with her peers in camping, Guiding and community activities. With regular respite opportunities available from the age of five, Nancy spent two nights a week and one weekend a month at a children's residence, where she and we came to trust other qualified people to meet her most personal needs. We have a strong partnership with this agency which we have chosen to provide support for Nancy to live in a home in a community not far from her family home for over 10 years.

We received direct funding through the special services at home program from its inception in 1982. In 1997, Nancy became one of 50 individuals transitioning from school to receive support from the Individualized Quality of Life Project which, since 2000, has been operated as options planning and supports for inclusive living by Family Service Toronto. We have had access to what they call a community resource facilitator, who gets to know Nancy through visits and opportunities to meet with, listen deeply and guide discussions for planning purposes with Nancy's support network, a group of family and friends whose relationships with Nancy are vital to the good life she leads.

An independent facilitator—and there have been three over the 11 years—encouraged and supported us to get the so-named "Nancy's network" started as a forum for developing a shared vision for her life, dreaming and considering possibilities for Nancy's meaningful partici-

pation in valued roles in the community and helping to mobilize involvement with Nancy.

The community development and capacity building which occurs through this networking are so valuable to everyone involved. Facilitation must be an entitlement, available once eligibility is determined, preceding the application process. Family Alliance recommends that persons and families have the option of using independent facilitators from a publicly funded organization or choosing their own with public funds. We want families to have support to develop and sustain a support network, to realize the person-directed planning process lifelong, as needed.

Planning options should encourage community inclusion and not a life in service. Planning independent of the service system would enable a person to receive planning support and facilitation without any pressure to select one agency or program over another.

By having a facilitator work for the person, conflicts of interest would be avoided. Best practices of models that deliver unencumbered planning support and facilitation in Ontario are well documented. People, together with family and friends, need independent facilitation to guide and identify the goals and strengths that will enable them to move more deeply into the typical community.

Person-directed planning like this is key to citizenship and self-determination when it is based on the principles and values of the document Common Vision for Real Transformation, and it is quite different from planning for traditional programs. Research completed by John Lord and his colleagues shows that when facilitation is combined with individualized funding for disability support, very positive citizenship outcomes are the result. It is vital that the option of direct funding as a choice for individuals and their families be entrenched in this legislation.

Direct funding offers families increased flexibility, more control over their lives and a freedom from reliance on traditional services. Families who have worked to provide lives of participation and inclusion for their children will have the option for this life to continue into adulthood. The recognition of the legal capacity of a person with a developmental disability, together with close family and/or network supporters, to make a direct funding agreement and direct how funds will be used should be included in the act.

Adequate and secure individualized funding must be available to people with disabilities so they receive sufficient funds to purchase the supports they require to participate. Historical practices of poor or no funding to direct funding programs will not move citizenship rights forward. Rhetoric about policy changes must be matched by adequate funding. Family Alliance Ontario and its colleagues have been working with government for over 20 years to establish direct funding options and have witnessed those programs stalled or stopped. We recommend that direct individualized funding be implemented substantially to make real the values and principles pro-

claimed in the government's agenda for the transformation of developmental services.

The person, with their family and support network, should have control over the funds and choose how the money is to be administered. Funding should move with the person so people with disabilities may live and participate where they choose, close to family and friends, throughout the province of Ontario. There should be no arbitrary caps on amounts of direct funding. Creating programs where people must fit into limited amounts of funding does not respect citizenship or diversity.

Historically, funding to families has also been much less than funding to agencies to support an individual. This double standard must stop. Persons living in a typical community must be supported to the same extent as they would be in traditional service.

Nancy currently has a budget for direct funding reviewed and revised as needed and submitted for approval annually. Our family manages an allocation for Nancy's community participation support. We receive fiscal management assistance from options to pay Nancy's personal assistants either as her employees or as independent contractors. The facilitator is available to assist with personnel recruitment and training if requested. Nancy is supported to choose people who are interested and interesting. Many enduring relationships and community connections have been made possible with direct funding.

Our finances are reconciled at least quarterly. We believe that those managing supports for a family through direct funding should be included in all distributions of funds for wage increases for support workers. Fairness demands that families have equal opportunity to offer competitive salaries to ensure the long-term viability of individualized supports and the competency of support staff. Families and their networks can be trusted to support responsible decisions for their family members regardless of the complexity or amount of support needed.

The development and funding of an accessible infrastructure of facilitation and fiscal management is a recommended investment for direct funding to be successful. Agencies must develop responsive systems for facilitating direct funding and portability. The unbundling of resources by agencies for families who request individualized funding should be encouraged by the ministry. The level of individualized funding can be as high as the amount being used for the support of the individual in the service that will be unbundled.

Enshrining waiting lists in legislation is shocking and leads to enormous strains on families already providing the bulk of support to their sons and daughters. As an example, no funding for the Passport direct funding program was provided in 2008, yet \$200 million was provided for agency enhancements and wage increases; no funding was provided to families with direct funding to increase the pay of their workers. Such imbalances and discriminatory practices must stop. Provision for waiting lists in the act must be struck from the legislation.

Regarding application centres, there's a strong sense of conflict of interest when one centre is responsible for assessing, prioritizing and determining the funding with no provision of an independent appeal process. Best practices have emerged which include separate independent panels to prioritize and determine funding. The history of difficulties with the design of application centres is so strong that Family Alliance Ontario strongly recommends that application centres be taken out of the legislation completely. More research and development is necessary with more input from family stakeholders. Processes should be worked out through the regulations of the bill.

The system needs to be accountable to individuals and their families as well as to the taxpayers. People need to see that they are being treated fairly with a transparent process. Guidelines used for prioritization and funding allocations should be made available as general information and not held as closely guarded secrets. Decisions need to be reviewed on a regular basis and summaries made available. Family Alliance Ontario recommends accountability that ensures that those involved with the person with a disability are doing what they say they are doing personally, financially and collectively. People and families are accountable to government for the expenditure of funds while independent facilitators and direct service providers are accountable to the person by ensuring the person's plan is implemented.

Independent self-advocacy groups want to continue to be involved as decision-making partners at the various planning and community tables in the province. Representation from People First and family advocacy organizations should have an equal voice as service-providing agencies at all decision-making tables locally, regionally and provincially. In order for Family Alliance and other family networks and family-directed organizations to organize in such a fashion that permits us to play an integral role in promoting the inclusion of people with developmental disabilities, we recommend that Bill 77 make provisions for funding of independent self-advocacy groups.

Thank you very much for this opportunity to present. 0930

The Vice-Chair (Mr. Vic Dhillon): Thank you. We have a little bit over a minute each, and we'll start with the NDP. Mr. Prue.

Ms. Christy Barber: I should explain that I'm not able to hear Mr. Prue very clearly. I may ask you to repeat your questions. Thank you.

Mr. Michael Prue: I haven't said anything yet. Can you hear now?

Ms. Christy Barber: Kind of, yes. Thank you.

Mr. Michael Prue: Okay. You made a number of statements, but there's one I'd like to zero in on. You want adequate funding. Has your group, Family Alliance, looked at the numbers, at how much funding you would seek from the government in next year's budget to actually make this bill do what you want it to do?

Ms. Christy Barber: We submitted a small budget request this fiscal year, which was turned down. It was

for some administrative support. It would be less than \$100,000 to be able to support some administrative functions and communication strategies. We are an umbrella group of family networks across the province, and that would enable us to disseminate information, to host educational forums and to have a small amount of administrative support housed in one of our local family networks.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Government side?

Mr. Khalil Ramal: Khalil Ramal speaking. How are you, Mrs. Barber?

Ms. Christy Barber: I'm fine, thank you. How are you?

Mr. Khalil Ramal: Not too bad. Thank you very much for your presentation.

Ms. Christy Barber: I cannot hear you very clearly.

Mr. Khalil Ramal: Thank you very much for your presentation. My question to you is, for the last two days we listened to many different agencies and organizations—

Ms. Christy Barber: I'm sorry, I cannot hear you.

Mr. Khalil Ramal: In the last two days, we listened to many organizations and agencies. They claimed that direct funding wouldn't be a good idea because the parents cannot take it and cannot manage it—

Ms. Christy Barber: I'm sorry; I can't understand what you're saying. The connection is terrible.

The Vice-Chair (Mr. Vic Dhillon): Is there any other way we can do this, tech staff?

Mr. Khalil Ramal: Can you hear me now?

Ms. Christy Barber: No, there's a lot of reverberation from the microphone. I can't hear you.

Mr. Khalil Ramal: Okay. Can you hear me now?

Ms. Christy Barber: That's a little better.

Mr. Khalil Ramal: Okay. For the last two days, we heard from many organizations and agencies. They claimed that direct funding is not a good idea because the parents cannot manage the situations and they don't know what to do and they cannot find suitable support for their kids. So, since you have had direct funding since 1982 and you have a lot of experience with these situations, what can you say to those organizations?

Ms. Christy Barber: There are many families who have managed and continue to manage with the direct funding model that currently exists with special services at home for the majority of families who receive this support. We have found that with good facilitation support and fiscal management, and organizations like respiteservices.com who have a database of potential workers, we can manage to secure very good assistants. It has been proven that it can work. The benefits to our daughter and her life in the community of being able to have the choice of who supports her and what her activities are are wonderful.

The Vice-Chair (Mr. Vic Dhillon): Thank you. We'll have to move on to the official opposition. Mrs. Elliott.

Mrs. Christine Elliott: Thank you very much, Mrs. Barber, for your presentation. My name is Christine

Elliott. I'm a Conservative member of the committee. Can you hear me all right?

Ms. Christy Barber: Somewhat.

Mrs. Christine Elliott: Okay. I'll try moving a little closer. It seems, from the comments that you've made and from some of the comments that have been made by previous presenters, that independent planning and facilitation is really key, along with direct funding, in order to allow families to think outside traditional means of support and to be able to truly allow for thinking outside of the box. Independent planning seems to allow the flexibility for their child and also to think holistically of all of the needs of the child. Would you agree with that?

Ms. Christy Barber: Very much so, yes. To develop a relationship with someone who is not tied to particular programs or services and someone who is familiar with the individual and takes the time to get to know our daughter, takes the time to consider the community in which she lives—it's very important that that person is an agent and represents the interests of the individual.

Mrs. Christine Elliott: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you, Ms. Barber.

Ms. Christy Barber: You're very welcome. Thank you again for the opportunity.

COCHRANE TEMISKAMING RESOURCE CENTRE

The Vice-Chair (Mr. Vic Dhillon): The next presentation is from the Cochrane Temiskaming Resource Centre. Are they here?

Mr. Wade Durling: We are.

The Vice-Chair (Mr. Vic Dhillon): Good. All right. Good morning, gentlemen. Welcome to the committee. You have 15 minutes, and if you can state your names before you begin, that would be really appreciated.

Mr. Wade Durling: My name is Wade Durling. I'm the executive director of Cochrane Temiskaming Resource Centre. I'm joined by Gary Dowe on my left, who is the director of psychological services and infant development, also part of our organization, CTRC.

I want to thank you for the opportunity to present to your committee specific to Bill 77. I do have a written submission that's now going around. I will review it with you and then would welcome any additional questions or comments that you may have.

The paper that's coming around gives a quick overview of CTRC itself. It's a small acronym, so I'll use that. I won't read all of this, but just very quickly, I'll let you know that CTRC was a schedule II facility back in 1976. We supported children and adults with developmental disabilities. We have since, from the late 1980s and early 1990s, moved to a community model of service. I've put down on pages 1 and 2 the primary things that we do. Number one is the professional and clinical support team. We employ over 40 professional support staff, clinical staff, and they provide supports and

services to children and adults with developmental disabilities, and they do that across the areas of Cochrane and Temiskaming. One thing that we have discovered that's very important in service delivery is that you do service in the community of the individual. So in order to enhance our capacity to do that, we have also established satellite offices in key areas. In addition to offices here in Timmins, we have offices in Kapuskasing, Cochrane, Kirkland Lake and New Liskeard. We also provide supports up in the Moosonee-James Bay area.

The other component that CTRC does is the residential and day program piece. We support 57 adults in group home settings today, 28 adults in what's called a family home setting—it's very similar to a foster care arrangement—and we also provide that same support to children—three today. We also have one child in a special group home setting in Timmins at this point who's in transition to adult services, and we have a child in a placement in Ottawa because of his particular needs. We also support approximately 100 individuals in two day program settings, both within Timmins. So that's a little preamble in terms of who CTRC is.

CTRC applauds the government for its ongoing work on transformation of the developmental services sector in Ontario. Bill 77 is an important step, in our view, in this transformation. It proposes a revised framework for the provision and funding of services to, or for the benefit of, persons with developmental disabilities. To us, it is specific to the entire province of Ontario. Therefore, it must fully consider the geography and the diverse and rich culture within Ontario and ensure fairness and equity for all citizens with a developmental disability.

With that in mind, CTRC is pleased to be able to offer its comments specific to the proposed legislation in the context of northern considerations, so thank you for that.

I want to comment on a few things, the first one being the application centres, and I understand you're getting a few comments in that regard anyway. CTRC understands the interest in a single and clear point of access to services and to the principles of fairness and equity. While the legislation looks to ensure those principles, the method prescribed within the legislation of an application centre is concerning to this area of the province. It is our understanding that only one application centre is planned for the entire northeast district. To put that in context, the area of Cochrane and Temiskaming, which is only part of the northeast, covers a land mass that's greater than the size of the entire southern part of Ontario. Specifically, as it relates to geography, this plan for the northeast would resemble only one access centre for all adults with a developmental disability in the southern part of the province from Cornwall to Windsor and all points in between. This is further complicated by the concern of cultural diversity and transportation concerns. For example, consider how individuals from Moosonee and the James Bay coast will access services and how this will improve access for them. The communities within Cochrane and Temiskaming have strongly supported access to services within one's own community and a collaborative model has emerged and works very well. Access to service is not a serious concern in this area; what is of concern is availability of services.

0940

New referrals for service and re-referrals for service are limited. In 2007, as an example, CTRC received 71 referrals for service for all of Cochrane and Temiskaming. Although I didn't include it here, those referrals probably would be inclusive of referrals to any other service as well, given the nature of what our service does. Of those, 45 were new referrals to the system and the remaining 26 were re-referrals. Only four were applying for residential services; the majority were requesting clinical and other professional support services. The numbers do not suggest the need for a new and separate service. Further, unless the application centre would receive new funding, the concept of removing further dollars from an already stretched sector would be concerning. A question that has been voiced specific to this matter within this area is this: How will this benefit individuals in this area?

The proposed legislation, in section 8, suggests that the minister may designate a service agency as an application centre. That would suggest, at least to me, that a service agency and an application centre could be one and the same. CTRC would view this as a little more palatable than requiring two separate agencies. However, that seems contrary to the communication that we have heard that an application centre cannot provide direct service to individuals with a developmental disability and therefore could not be a service agency.

In short, we support the principles that are sought in the legislation, but our recommendation would be that the proposed legislation prescribes an application process and outcomes in place of legislating application centres and that individual communities work together with regional offices to ensure these outcomes are achieved.

In terms of waiting lists, the proposed legislation identifies that application centres will be responsible for monitoring waiting lists. Waiting lists are an unfortunate consequence of limited resources and services. Bill 77 provides no clarity on the role of service agencies in working with individuals waiting for service. Services and service agencies and community must work together with individuals and their support network to determine how best to support individuals, particularly those most in need.

This brings to mind a recent situation of three individuals all in need of an immediate residential group home placement and there being no beds being available. One of these three individuals was in the mental health unit of the local hospital, didn't need that service any longer, but wasn't able to return home. A second person was in her own apartment but no longer capable of supporting herself and raised significant questions of health and safety. The third was at home with aging parents who were no longer able to provide the support required. These situations arise regularly. The response to this is not about a wait list and no spaces being available; rather, it is about services working together with family and

community. Ultimately, with that in mind, a solution was found for all three. Services need to understand the needs of individuals and the community and be able to plan together in order to best respond to those needs within finite resources.

As such, we would recommend a caution to the concept of including wait lists within Bill 77 in its present format and simultaneously would promote that an appropriate process be included that ensures a timely response to those most in need and in urgent need and ensures involvement from services.

In terms of services, much of the work that CTRC does relates to psychology and other professional supports for individuals and their families. These supports are integral in maintaining community living arrangements for individuals and families. Approximately 38% of individuals with a developmental disability have a dual diagnosis, meaning a co-existing mental health issue and/or challenging behaviour or behaviours that seriously affect the quality of one's life. The majority of individuals supported by CTRC have a dual diagnosis.

Consequently, we'd recommend that sections 4(1)(5) and 4(2) of the legislation be broadened to talk about "psychology and professional services" instead of "a psychologist," and that it recognize the many specialized health care providers and professionals in the sector, including behavioural therapists, psychometrists and registered psychometrists, community support workers, occupational therapists, as well as speech language pathologists, to name a few. We would also note that speech language services, although in the proposed legislation, are limited in work with adults. Their work is primarily with children and early intervention practices.

We would further recommend inclusion of a clear process of addressing the needs and support questions of those with more complex needs, the dually diagnosed or the medically fragile. Many times, such needs are resource-intensive and immediate.

Some general comments: CTRC notes the clarification of "eligibility for services" through inclusion of a definition of "developmental disability" in section 3 of the act.

While the act contemplates a "review of determination" for eligibility for service, our view is that this component of the act is weak. Individuals and families must have access to a fair and objective appeal process, and this should be embedded in the act in very broad terms.

CTRC supports the concept of two funding streams: funding agreements with service agencies, and direct funding agreements with individuals or other persons on their behalf. That being stated, measures must be taken to ensure: that service agencies are able to attract and retain qualified front-line and professional staff; that individuals and families are able to purchase quality supports within the community; sustainability of a stable system without the threat of eroding resources or quality of care.

In subsection 27(4)(d)(i), "the adequacy of the staff"—this has to do with inspections—just requires clarification in the act; I'm not sure what you mean.

Section 30, concerning takeovers, needs to consider that several agencies have more than one service agreement. In our opinion, the ministry should not have powers to take over and manage the affairs of a private agency based on a breach of contract. The ministry should and does have powers to assign a manager or reassign responsibilities and/or terminate funding related to services described in a contract of service.

The proposed access to an individual's personal information by the minister and ministry, as contemplated in this act, is concerning, as it relates to a person's right to privacy. People with a developmental disability, and indeed any person, have a right to expect that their personal information is secure and not subject to scrutiny by those they have not consented to have access, other than in very limited circumstances.

In summary, I want to thank you again for the opportunity of presenting to your Standing Committee on Social Policy concerning Bill 77. CTRC supports the idea of this new legislative framework, but strongly encourages the committee to consider our comments and recommendations and to adjust the proposed legislation specific to application centres, waiting lists, services, and as it relates to our general comments.

Finally, we would request that the committee ensure that the public will be fully consulted on the regulatory framework for this legislation prior to the government undertaking the process of drafting and adopting regulations.

The Vice-Chair (Mr. Vic Dhillon): Thank you. We have about a minute each. We'll begin with the official opposition.

Mrs. Christine Elliott: Thank you very much for your presentation. I just had two questions, if I may. One was with respect to the concept of the wait lists and being able to have a timely response for those most in need. It was suggested in one of the earlier presentations that if you had the independent planning and facilitator who was involved with that, even though you might not be able to get the person into the precise service that they might need, other things could be done in the meantime to sort of triage the situation until more concrete supports could be put in place. Is that what you're thinking of when you're talking about a different process?

Mr. Wade Durling: Yes, but not necessarily to limit it to an outside facilitator. I think there are also things that services can do.

My other concern in terms of what I'm hearing right now is that services are limited to a residential group home, which, to me, they're not. Services also need to expand and change. So if they're going to be involved in that process, then they need to be involved in the process, and the legislation needs to support that. Otherwise, services are off to the side and, really, we're just talking about a space that's available, and to me, that's not what this is about. I think the legislation has the wrong model.

Mrs. Christine Elliott: You're saying it needs to be more expansive and consider much more than just that piece?

Mr. Wade Durling: This is a whole community approach, at the end of the day, if we're going to do this and do this right. Everybody has a point: the individual, the family, a facilitator, whoever that person is, services, and a number of other people and professions as well.

The Vice-Chair (Mr. Vic Dhillon): Mr. Prue.

Mr. Michael Prue: Your point about the land mass is absolutely correct. How many application centres or community groups doing the applications would be necessary, in your opinion, for the northeast of Ontario?

Mr. Wade Durling: Personally, I strongly believe that services need to be where the individual is. The way we see this work right now is that individuals come to their own community, and they can walk in any door now, and then we do what's called a screen and link. So if you look at your primary communities, at least, that's where they need to be, and I've identified five of those right now that we have satellite offices in. The one place that we don't have that really needs something more specific is Moosonee and the James Bay area.

Mr. Michael Prue: So probably six.

Mr. Wade Durling: At least six.

Mr. Michael Prue: So if the government designated six and got away from the idea of "an" application centre in northeastern Ontario, you would support that?

Mr. Wade Durling: I support a collaborative model approach; I don't support a separate agency doing what I'm hearing—so I don't support the concept of application centres necessarily; the application process I do support, if that makes sense, and having it be fair and equitable across the province, I do support.

The Vice-Chair (Mr. Vic Dhillon): Mr. Ramal. 0950

Mr. Khalil Ramal: My question is also about the application centres. You mentioned in your brief that the application centres will help the government to reduce the waiting lists and see where we can service the people. Mr. Prue asked the question about satellites or how many application centres are needed in order to serve the whole region. Are you in favour of one centre and that centre connecting all of the province with satellite offices in order to communicate and participate in the service?

Mr. Wade Durling: I'm having difficulties with the idea of an application centre being legislated in Bill 77. I think our main message would be that we would look for the main components that you want out of this such as a fair application process.

Mr. Khalil Ramal: It's how we can unify service and assessment across the province. As we're speaking, we don't have any unification.

Mr. Wade Durling: But some of the testing that you've done, as an example, has been done inside a service agency, not inside a separate agency, and it's worked very well. I think there are other ways to do that without necessarily creating another bureaucracy.

The Vice-Chair (Mr. Vic Dhillon): Thank you, sir. Mr. Wade Durling: You're welcome.

TERESA COLANGELO

The Vice-Chair (Mr. Vic Dhillon): Next is another teleconference. Do we have Ms. Colangelo on the line?

Ms. Teresa Colangelo: Yes, hello.

The Vice-Chair (Mr. Vic Dhillon): Good morning. Welcome to the committee. You have 15 minutes, and if you can state your name for the record, you may begin.

Ms. Teresa Colangelo: Thank you for the opportunity to address the Standing Committee on Social Policy with respect to Bill 77. My name is Teresa Colangelo and I have been working in the developmental service sector as a front-line worker and disability advocate for more than 20 years.

I have been employed in a number of positions providing a variety of supports and services in residential, vocational and supported independent-living programs. I have had the privilege to have worked with hundreds of individuals with intellectual disabilities and their families throughout my career. I would like to share some of my observations and experiences of the developmental service sector over the last 20 years or so.

Back in the 1980s, when I was in school, community colleges offered developmental service worker programs. Enrolment in these programs was substantial. There were more applicants than spots in the program. The DSW program offered students specialized skills training to support persons with intellectual disabilities. Today, many colleges no longer offer DSW programs or are unable to attract people to this field.

As a result, the issue of finding and retaining qualified, experienced and skilled staff has continued to be a problem. Turnover rates among staff are high. Over the last 20 years, the staffing crisis has only gotten worse within a system that has been chronically underfunded while the need for supports and services has grown. Historically, there has always been a shortage of services and supports for people with intellectual disabilities; there have been more individuals requiring service and support than what is available to them.

Unfortunately, I have not seen much change in this area. Despite more individuals receiving services and supports, wait lists have continued to grow. All too often, individuals are entering into service with various agencies on an emergency basis because of changes in their health or family situations. People with disabilities should not have to go into crisis situations in order to obtain services and supports to which they are entitled as citizens. There ought to be a mandatory minimum level of support and service that is consistent across the province regardless of geographical area.

Bill 77 does not ensure that persons with intellectual disabilities will receive supports and services that they need. It does, however, identify that they will be placed on a waiting list if supports and services are not available. Bill 77 is a unique piece of legislation in that it entrenches waiting lists into the body of the legislation itself. By including wait lists in the legislation, the government is not respecting the rights or dignity of persons with intellectual disabilities to have equal access

and opportunities to supports and services within their communities and society.

Rather than entrenching waiting lists in the legislation, the government would serve these citizens more appropriately by having a concrete long-term plan that is adequately funded to reduce and eliminate wait lists across Ontario. In doing this, the government will send a clear message to individuals and families that they are important, that this is a priority for government, and that wait lists are unacceptable responses to a chronic need for funding, services and supports.

Persons with developmental disabilities are particularly vulnerable within our society. In order to protect and safeguard individuals against abuse or mistreatment, the government must consider the following:

First, adding a preamble to the legislation that outlines the intent of the law and that recognizes the rights of persons with disabilities to participate as full citizens with equal opportunity and access to supports and services. The preamble should identify the rights of full inclusion and citizenship of persons with disabilities, similar to the declaration made by the United Nations.

Bill 77 must protect against for-profit service providers setting up shop in communities and profiting off the backs of persons with disabilities. Funding is and has been a significant problem that has plagued this sector for decades. Service and support providers must ensure that all funding for individuals is actually spent on the individual in providing the necessary supports and services that the individual needs in order to live and function as independently as possible.

As well, financial accountability must be the same for all persons or agencies receiving funding. It is imperative that what little funding is allocated to this sector be monitored and accounted for. This is the only way to prevent corruption and to ensure that the monies allocated are spent on the necessary supports and services for individuals in need.

The government should also consider removing any reference to age in their definition of disability. The inclusion of age in the definition may in itself exclude or discriminate against those who have not received supports, services or appropriate medical diagnosis. There are many legitimate reasons for someone not to have been formally diagnosed by the age of 18, such as immigrating to Canada as an adult, socio-economic issues, lack of resources, language barriers and other issues within geographical areas, lack of trained professionals to accurately test and diagnose disabilities, and so on.

There must also be assurance to individuals and families who currently receive services and supports that reassessments will only be made when an individual's needs have changed; that is, reassessments made on the basis of changing needs rather than a review of funding.

Application centres must not create additional red tape for individuals and families, or redirect funding that could be otherwise invested in services and supports.

There must be a mandated minimal level of supports and services afforded to all individuals with developmental disabilities. This is the only way to ensure inclusion, participation and full citizenship.

As a developmental service worker, I have the experience, training and skills to perform a wide range of services and supports. I assess individuals in terms of their abilities and needs and locate the appropriate supports and services. Many of their needs are complex and challenging. Where no supports or services exist, I create them. I've been responsible for all aspects of one's life: their medical, emotional, spiritual, physical, financial, personal care and other needs. I am legally, morally and ethically accountable for the work that I do. This work comes with enormous responsibility and accountability to the individuals, their families, the community and the agency which I work for.

It is impossible for me to summarize in a few minutes the extent of the work or supports and services that we as developmental service workers provide to persons with disabilities, their families and the community. The government must begin the healing process and mend this fragmented system of developmental services in a way that truly respects the rights and dignity of those with disabilities and provides them with the necessary supports and services that they need.

Thank you, and I appreciate your time.

The Acting Chair (Mr. Dave Levac): Thank you very much, Ms. Colangelo. You have left enough time for each of the parties to have two minutes. We'll start with the NDP.

Mr. Michael Prue: You talked about the schools and the declining enrolment. Is this a direct result of the less than adequate pay within the workforce or work sites?

1000

Ms. Teresa Colangelo: I believe so. There are many issues that plague the sector, and certainly underfunding is one. Workers need to make a viable living. I work for a large agency and there are thousands on staff, and many, many of my co-workers have two or three jobs to make ends meet. It becomes very difficult for workers to survive and so it's difficult for them to stay in this field. It's also not an easy job; it's not a job that anybody can do. It really is a job that people need to be committed to.

Mr. Michael Prue: I personally know people who work in the field, and they have shown me oftentimes bruises and difficulty dealing with clients who, through no fault of their own, often will be aggressive. Other than giving more money, what else can we do to get people interested in this kind of work, which is very difficult work?

Ms. Teresa Colangelo: Certainly wages are one thing, but also funding for better services—ensuring that the proper assistive devices are in place that reduce accidents and injuries. It's not just about aggression; not all the individuals with developmental disabilities have behavioural or aggressive issues. Many of them have high physical and medical needs, which takes a toll on their bodies. I'm sure you can ask any of the parents in that room who have physically assisted their children for years upon years and now are left with chronic back

conditions or other ailments. There needs to be a structure where all of the assistive devices that an individual may need are in place, as well as proper staffing levels and just really ensuring that their needs are accurately assessed and being met in a way that supports them and also considers the staff's health and safety.

The Acting Chair (Mr. Dave Levac): Thank you, Ms. Colangelo, and with that, we'll move to the Liberals.

Mr. Khalil Ramal: Khalil Ramal speaking; I'm representing the government. Thank you very much for the job you do on a daily basis. Like yourself, I've worked in both settings—big facility institutions and also in group homes. So I know what you're talking about and I know what you mean by physical abuse and many different aspects.

This bill focuses on direct funding to give families a choice and to seek better service: You spoke about the waiting list. The aim for the bill is of course to deal with the waiting list and give the family a choice to look after their loved one. You didn't talk much about this one here. What do you think about direct funding and how it will impact many people with disabilities across the province of Ontario?

Ms. Teresa Colangelo: I go back and forth about direct funding. I believe if it's a way to get individuals off a waiting list and give them services and supports, that's great. The trouble for me with individualized funding is that there has been a lot of research that I've read around individualized funding, and most of those families and individuals get far less funding to purchase the services and support than people who are affiliated with an agency.

Mr. Khalil Ramal: But we've listened to many families that have spoken to us the last two days and they were happy and thrilled with the direct funding; they've been managing their lives and their kids or their loved one very well over the years.

Ms. Teresa Colangelo: I think if it works for them, then that's great. My experience with individualized funding has been that there is still an onus on families and parents to pick up the shortfall where the funding is not sufficient. The idea for me is for individuals to be as independent as possible and not have to continue to rely on the families and their parents for continued support throughout their lifetime.

The Acting Chair (Mr. Dave Levac): We'll move to the official opposition.

Ms. Sylvia Jones: Ms. Colangelo, my name's Sylvia Jones and I'm with the Progressive Conservative Party. Great presentation, thank you. I wanted to get your thoughts on whether you believe entrenching the waiting lists in Bill 77 is in fact going to mean more service for individuals.

Ms. Teresa Colangelo: I'm sorry?

Ms. Sylvia Jones: Do you believe that entrenching the waiting lists in Bill 77 will equate to additional service?

Ms. Teresa Colangelo: No, I don't think so. I think that by putting it in the actual legislation, it is saying that, "It's okay if services and supports are not available; we

can put you there." What I'm saying is that I don't believe that anybody should have to wait for services. There needs to be a mandatory minimum level of service and support given to all individuals.

By putting waiting lists as part of the legislation, it allows for the opportunity for people to linger there for a very long time. Historically, some families have waited years, upwards of 10 or 15 years, for service. No one should have to wait that long. No one in the community would imagine waiting 10 or 15 years for health care, for example. Many of these individuals have unique challenges and very complex issues. It could be behavioural, it could be medical, it could be a number of challenges, and they require the supports now, not 10 years from now.

I understand that there may not be supports and services available in all areas, and there may be a need to wait in some circumstances, but waiting needs to be kept to a minimum. I think that when it's entrenched in the law, it means that we're saying that it's okay. If we're saying that people with disabilities ought to be full participants in our society, then they should be also respected enough not to have waiting lists entrenched into the law.

The Acting Chair (Mr. Dave Levac): With that, we want to thank you, Ms. Colangelo, for your participation today. We appreciate deeply your thoughts and your concerns.

Ms. Teresa Colangelo: Thank you very much.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 664

The Acting Chair (Mr. Dave Levac): Now we'll move on to the Ontario Public Service Employees Union, OPSEU, Local 664. If Helen Riehl is available, would she step forward, please?

For the record, would you please state your name and if you represent someone? You have 15 minutes to present. All of the time can be used in your presentation, or anything left at the end of your presentation will be divided up equally for questions and answers. Thank you for being here today.

Ms. Helen Riehl: Thank you. My name is Helen Riehl, and I'm representing the Ontario Public Service Employees Union, Local 664, which represents members from the Cochrane Temiskaming Resource Centre, Community Living Timmins, Community Living Iroquois Falls, and Access Better Living in Timmins.

Good morning. Let me start by welcoming you to Timmins and thanking you for giving me the opportunity to speak to you today regarding Bill 77.

A little bit on my background: I have been working in the developmental services sector for 27 years. I graduated from Sault College in 1981 from what was then called the MRC program, or the mental retardation counsellor program, which has now evolved and is known as the developmental service worker program. I currently work at the Cochrane Temiskaming Resource Centre, which is a community-based agency providing professional and residential care to people with developmental disabilities in the districts of Cochrane and Temiskaming.

But as I said, I'm here today representing OPSEU. Provincially, OPSEU represents about 8,000 members in the developmental services sector, and about 1,000 of them are in northeastern Ontario. These workers are very dedicated to the work they do and the people they provide service for. We know our work, and we know what is needed. We recognize that new legislation is long overdue, but there are some issues with this bill that OPSEU wishes to address.

Too many people with developmental disabilities are going without the supports they need. Families who have a child with a developmental disability have told us that they want quality supports and services they can count on that are provided by the community-based developmental service agency system. Most families' lives are extremely demanding. They can't always manage the many different types of supports and services their loved ones need. They may not have the time to sift through and shop for the services they so desperately need.

We worry that this legislation could lead to the erosion of the quality supports that agencies are now able to provide and create a multitude of service providers, some for-profit, making it more difficult for families. We applaud the fact that you are making people with developmental disabilities a priority, but we have three serious concerns regarding Bill 77.

1010

Our biggest concern is the creation of individualized budgets through an assessment process. This bill sets out a needs assessment of each person with a developmental disability and then attaches a dollar value to the services for that person. Agencies will then receive funding that comes with that person for their service needs but won't receive the administrative and overhead costs that go along with running an agency. Agencies will be forced to cut corners to cover operating costs.

Also, since the funding is tied to the client, the agency becomes vulnerable as clients move on. Budget planning will be impossible, creating instability for families and workers. Agencies will go without those funding dollars while they work to fill the placement. The focus will shift to filling funded spaces and promoting the agency, instead of where it should be, which is providing service.

The second issue is the creation of third party private brokers as outlined in the bill. This is frightening. As you know, there are long waiting lists for services all across the province. In Timmins, many adults cannot receive more than a few hours of day support a week. Funding increases are needed to address this need, not another choice of where to go for a recommendation of where to receive funding. Also, in the past four years, Timmins has closed two group homes, resulting in the loss of nine full-time residential placements. Families are forced to wait until a client in an existing placement dies before a residential spot opens.

There are adults living with their aging parents who have no options. Those most in need are the only ones

eligible for residential placements, and then only when one becomes available. Families are left to consider abandoning their child, whether it's a minor or adult child. Given the limited options for these families, they will have no choice but to take the individualized funding. Yet supporters of Bill 77 say that families will have more choice. You don't have more choice when there's nothing to choose from.

Most working families will be forced to turn to the newly created privatized brokers. These brokers will take an automatic cut off the top and then find the lowest bidder to provide services, in most cases for low wages, little or no benefits and little or no accountability. This will result in high turnover of staff and unstable care for individuals.

When full funding is given to agencies, families can take comfort in knowing that there was a screening process of workers, an interview, a credential check and most likely a criminal reference check. They can take comfort in knowing that staff are trained in first aid, CPR and CPI. Usually there is some other type of formal training. They can take comfort in knowing that employees are accountable to their employers for their work and their actions.

After receiving an assessment, families will have limited options. They can use their assessment to access agency-provided services, but in most cases that will mean staying on the same waiting lists that they've already been on for many years, or taking the individualized funding.

This provision of the bill opens the entire sector to privatization and the lowest-common-denominator service provision. As we've seen in the competitive bidding process in home care, it doesn't work, and it won't work in developmental services.

We are very concerned that the assessment process will lead to the loss of services that some people are now receiving. This bill sets out to provide services to more people within the existing funding dollars.

It also legislates the assessment of everyone with a developmental disability, including those already receiving services. The inevitable outcome of this assessment, given the goal of equalizing services for everyone with a developmental disability, is the loss of services for some already in the system, as was also seen in the home care sector.

If Bill 77 goes ahead as is, it will have a huge detrimental effect on community-based developmental service agencies and the quality of care they are able to provide. We ask that you work with us to rework this legislation so that it addresses the above points. Thank you.

The Acting Chair (Mr. Dave Levac): Thank you very much for your presentation. You've left a couple of minutes each for the caucuses. We'll start with the Liberals.

Mr. Khalil Ramal: Thank you very much for your presentation. I have two questions. First, we heard many different groups for the last two days asking us as a government to change the service for people with de-

velopmental disabilities to an essential service, due to the strike that happened last summer. I guess that parents and agencies believe strongly that the privacy of those individuals who lived in their homes was being invaded.

My second question: The aim and goal of Bill 77 is to give a choice, not make it mandatory, to families who believe strongly that they are able to manage their own affairs and have the ability to find a good service for their loved ones.

Those are the two questions.

Ms. Helen Riehl: In terms of developmental services becoming an essential service, in the early 1990s some of us were under HLDAA, the Hospital Labour Disputes Arbitration Act. There was a settlement that was given— I believe it was in the Ottawa district—that was a fairly substantial wage increase and said that the sector had been underfunded for years and that these people needed their wages increased to bring them up closer to what they should be making. As a result of that, the government of the day removed developmental service workers from HLDAA. So it's entirely up to the government what they want to do. As unionized workers, we know that when you work in a right-to-strike environment, the possibility exists that you may go on strike. It's never an easy decision for anybody in this sector to take that step, to go on strike, and we certainly didn't want to do that. Making it an essential service—I really can't comment because I don't know what the majority of the sector would want.

In terms of families being able to choose what they want, the frustration will come when the only choice they have is to hire the person across the street or their neighbour's cousin or something like that because the wait lists at the agencies that provide quality care and educated care are so long that they can't get care from those agencies. It's like the private health care argument. If somebody really needs surgery, are they going to wait three months if they have the money to pay and they can get it next week? I think that families will be selling themselves short of quality care in order to get the care immediately.

The Acting Chair (Mr. Dave Levac): And with that, I thank you very much. We'll move on to the official opposition.

Mrs. Christine Elliott: Thank you, Ms. Riehl. I think you hit the nail on the head when you were saying the basic issue here is funding. It doesn't really matter whether it's agency funding or direct service funding; both have to be funded significantly more in order for the system to work. But if there were sufficient funds for both direct and agency funding, given the comments that you've just made, when families would have a real choice, would you have a problem theoretically with that concept of working hand in hand with direct service providers?

Ms. Helen Riehl: I think that would depend on how they were able to access the service once they got the direct funding. If it's going to be through a broker who is making a profit, then definitely OPSEU wouldn't be in favour of that. If it's going to be through an agency—there are some agencies that do that now, that help people with special services at home funding and then help them find a worker in order to provide that service—that's not as big an issue.

Mrs. Christine Elliott: So if it was with a planning and facilitation group that also was perhaps receiving some funding from the government or had some accountability mechanism, that would be acceptable?

Ms. Helen Riehl: Yes, for sure. The big thing is the accountability. They have to be accountable to someone.

Mrs. Christine Elliott: Thank you very much.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Mr. Prue.

Mr. Michael Prue: I'm really worried about the third party broker system here in terms of how much it's going to cost and whether it's going to be another level of bureaucracy. Has OPSEU studied any other jurisdictions and any other use of these third party brokers: how much they cost, how they get their jobs, how qualified they are? And in the end, is their only job to find the cheapest common denominator?

Ms. Helen Riehl: From the studies that we've seen, I believe it was in Newfoundland and Labrador where they had a similar system and it didn't work because more money was being spent on—well, not more money on the brokers, but a lot of money was being given to the brokers. And then there were problems defining who the employer was.

Have they done a study on a dollar amount? I don't know. I know that in health care, competitive bidding has not been successful, and OPSEU has been pretty vocal on that and putting their concerns forward on that.

Mr. Michael Prue: The right to strike was raised by my colleague Mr. Ramal, and it was also raised by someone here earlier this morning. I asked the question, and I want to ask you the same: Do workers in OPSEU consider their right to strike a fundamental right, or are they willing to trade it away for arbitration?

Ms. Helen Riehl: Arbitration has worked very well in some sectors of OPSEU, and they've been able to argue that sectors have been underfunded and to get more funding. That's what happened in OPSEU, which basically took away a lot of the access to arbitration in the first place. Personally, I would never want to give up my right to strike. I think that OPSEU, corporately, may have a different view of it if it was getting something that we wanted, but I couldn't say for sure.

The Vice-Chair (Mr. Vic Dhillon): Next, we have Ms. Stephanie Malinsky on the phone. No?

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 1880

The Vice-Chair (Mr. Vic Dhillon): Okay, we'll move on to the next presenters, the Canadian Union of Public Employees, Local 1880. Good morning. If you

could state your name for the record, and you have 15 minutes. You may begin.

Ms. Cindy Hertz: My name is Cindy Hertz. I want to thank you for the opportunity to speak today. I am a front-line worker from Community Living Algoma. I have worked in the developmental services sector for over 15 years. I am also active in my union, which is CUPE Local 1880.

I have travelled from Sault Ste. Marie to make this presentation. As I'm sure you can appreciate, the issue of distance and isolation is significant in the north. That, however, does not mean that communication is a problem. Word travelled fast in the Soo and I was approached over the last week by family members and co-workers with comments that they wanted me to share today. I also got on the phone and spoke to people in Manitoulin, Sudbury and Espanola. If I was going to drive six hours each direction, I wanted to make a presentation that was reflective of more than just my experiences and thoughts.

My job is to work as part of a team with families, coworkers and others in the community. I have worked with the same individuals for the past eight years. One woman I worked with for 14 and a half years, until just recently, when she passed away. I have been blessed to share in these people's lives. This is more than a job; it is an important part of my life.

As much as I love my work, I have had to struggle with the reality that I have needed two jobs. I have had to support my family and needed to work two jobs to make enough money to pay my bills. I am one of many in this position in my agency.

I'm sure it's not a surprise to anyone in this room that staff turnover is a big problem. A couple of years ago, I read a paper that the employers wrote, entitled Quality Supports through Competitive Compensation, which they submitted to the ministry. They explained how agencies are facing serious staffing issues. Some of the issues—not all—were: difficulties in attracting and retaining qualified employees; high turnovers resulting in increased recruitment, training and supervision costs; many employees being forced to hold multiple jobs due to low wages and part-time hours; experiencing a diminished pool of potential employees; finding it increasingly difficult to meet emerging service needs. All these issues apply to the north.

I was excited when I heard there was going to be new legislation. However, when I read it, it did not seem to me that the new legislation was going to address the problems I have listed. In fact, with direct funding, I can see things getting worse for the families and workers.

I cannot tell you in hard numbers—I'm sure the ministry has this information—but as difficult as staff turnover is and as difficult as it is to find people to fill vacancies in other parts of the province, this issue is huge in the north. Our populations are smaller and more spread out, and the distances we need to travel are greater. The issues of distance and isolation only intensify these challenges. If you look at Manitoulin Island, Sudbury, Fort Frances and Sault Ste. Marie, the realities are the

same. Finding developmental services staff and keeping them is a challenge. This challenge of getting staff with certain skill sets and keeping them is profound. In Manitoulin, the turnover of staff prior to the four-month mark presents a challenge. The feeling by many is that the job has become a transitional job. Increasing numbers of staff do not see a future in the sector. The same trend is seen across the north.

I'd like to spend some time today talking about an issue which some might see as a workers' issue, but it would not take long for anyone who lives in the realities of the developmental services sector to realize the importance of retention and recruitment. This example I'm giving is from where I work, not using names.

Staff with many years of experience work with an individual who lives at home. This person became physically aggressive to himself and others when entering his early teens. The family needed the supportive staff to work in their home for the safety of the person supported and themselves. Staff needed ongoing training and supervision and have had to coordinate between a number of individuals who were involved with the person supported. As the relationship and the understanding of the individual grew, his life became more settled and happy.

I feel the important keys to this success and others are knowing the person supported and their family, having experience with a wide variety of strategies to deal with the individual's challenges, working with a team, and being trained and supervised. This is an example of a person who is under the age of 18, and we hope he will continue with our agency through his adulthood.

In Sault Ste. Marie, the agency I work for is working to provide more supports to people in their homes. One of the challenges is finding people who will stay in this sector. Hopefully, if we all work together, great things will happen for all involved. There is a large training component, as there are unique challenges presented when working in someone's home.

In the north, families are finding it difficult to find staff to do respite work through direct funds, as salaries are just above minimum wage—and I should say "consistent" staff. In an agency, at least they offer staff benefits, training, job security, and a salary better than what the parents are able to provide through direct funding. If agencies, with their supports and compensation packages, are having challenges finding and keeping staff, how is it reasonable to think the direct funding option is going to work?

In addition to compensation and training, there is also the reality that this field has a high incidence of injuries. How will this issue be dealt with within the direct funding relationship? The government will need to take a look at liability issues of the parents as they expand the direct funding model.

In order to provide the services and supports that are right for the people we work with, we as workers need support too to make sure we have the training, updated information, skills and resources to do the job.

This bill says it is about choice, but what is the choice, really? When there are waiting lists, parents have no choice. If they receive direct funding but cannot realistically recruit or keep qualified staff, what is the choice? When this fragmented funding model undermines agencies' funding, what is the choice? If community living agencies have a problem with staffing, how are families going to staff their homes? Again, is this really providing a great choice for people? We have seen what happens when work is casualized or becomes parttime. Workers come and go; the quality goes down. What choice does this mean, when the quality of service is eroded?

1030

If families need support to keep loved ones in their homes, agencies can be funded to provide these supports. If an individual needs a day program, employment opportunities, independent living supports or residential placements, an agency can provide these supports, too, if they are funded in a way that they can develop these programs.

When you look at the education sector and the health sector, it is recognized that individuals who deliver these services must have a skill set to do this work. Well, we do, too. Systems to provide services are put in place for a reason. Undermining agencies' ability to develop a skilled workforce is not good for the workers and the families; the two are interlinked.

The explanatory note for the bill sets out that the concept of the bill is to ensure that the act is applied consistently to persons with similar degrees of developmental disability. How can there be consistency when we move from the number of employers we have in the north to the possibility of over hundreds, through direct funding arrangements?

This bill will deskill the sector, when what should be the priority is building a sector that is firmly based on a strong agency foundation. Developmental services, as a sector, is not going away. It is crucial that the sector can rely on the fact that they are able to hire and keep people with skills that can support individuals and their families. A system of direct funding that undermines agencies and deskills workers is not good for the people we support, families and workers.

In summary, many of us were drawn to work in this agency or in this field because of family members and friends who were involved in this sector. Our work on the front lines with parents, families, staff and agencies is as a team, who work together to support individuals. We are not separate groups with different agendas. Our goal is to support individuals to have full participation in the community. This is a shared agenda. We know that quality of life for people with supports is closely intertwined with those who provide the support. In the north, how can it be good to further isolate workers by not having them be a part of an agency? How are parents going to find qualified people to work as independent contractors? How is the ministry going to ensure that parents, as employers, are going to provide the proper level of training and supports to ensure quality of care?

Legislation such as Bill 77 needs to come with a budget to support it. Being able to develop an individualized plan for a person with disabilities and then having a variety of high-quality options to access is what creates choice for individuals and families.

The focus of this bill seems to be more about setting up a new funding model than it is about addressing the long-standing challenges in the sector.

Thank you for providing me the opportunity to address you today.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. You were right on for your time, and there's no more time for questions and comments.

FAIR SHARE TASK FORCE

The Vice-Chair (Mr. Vic Dhillon): Next, we have Fair Share Task Force. I believe it's a teleconference. Do we have our folks on the line? Hello?

Mr. John Huether: Hello?

The Vice-Chair (Mr. Vic Dhillon): Hi, there. Can you hear me okay?

Mr. John Huether: Can you hear me?

The Vice-Chair (Mr. Vic Dhillon): Yes, we can hear you fine. Can you hear us?

Mr. John Huether: Yes. It's a bit fuzzy, but for the most part we can hear you.

The Vice-Chair (Mr. Vic Dhillon): Okay. We'll try our best. Please identify yourself before you begin. You have 15 minutes.

Mr. John Huether: Okay. My name is John Huether. I'm the chair of the Fair Share Task Force. Also presenting with me is Jim Triantafilou, who's the executive director of Brampton Caledon Community Living. We very much appreciate the opportunity to make a presentation to the standing committee on this important piece of legislation.

Fair Share is a community coalition of social and health agencies and volunteers who are committed to advocating for equitable access to social and health services through funding equity across the province for both social and health services. We have been in existence for 17 years and have the support of the boards of trade in Peel region and the regional and municipal governments, as well as other community groups and organizations in Peel. We are also a partner in the Strong Communities Coalition, which is addressing the same issue on behalf of the United Ways of Peel, Durham, York and Halton, together with the growing communities health care coalition. Although our location is Peel, our advocacy is relevant to the entire province, especially those communities which have experienced population growth over the past 20 years and those who expect to grow as a result of the Places to Grow policies and direction.

I would ask Jim to present to you the first part of our presentation.

Mr. Jim Triantafilou: Good morning, ladies and gentlemen. Brampton Caledon Community Living is an

1040

organization dedicated to the inclusion and well-being of persons with an intellectual disability. We are the major developmental service provider to children and adults with an intellectual disability and their families in Brampton and Caledon. Brampton Caledon Community Living is a member of the Fair Share Task Force and Community Living Ontario.

We thank you for this opportunity to contribute to the dialogue on Bill 77. Bill 77 provides a tremendous opportunity to modernize our approaches to supporting people who have an intellectual disability—

The Vice-Chair (Mr. Vic Dhillon): Are you still

Mr. Jim Triantafilou: Yes.

The Vice-Chair (Mr. Vic Dhillon): Continue.

Mr. Jim Triantafilou:—and to promote a more inclusive society which supports all people to participate fully within their communities.

We're experiencing some feedback at our end.

The Vice-Chair (Mr. Vic Dhillon): Can I ask you guys to use your handset, because we're getting feedback from your speakerphone.

Mr. Jim Triantafilou: Can you hear me?

The Vice-Chair (Mr. Vic Dhillon): Yes. I know it's a bit of an inconvenience when we're all wanting to talk in this setting, so I'd request that you continue using the handset.

Mr. Jim Triantafilou: All right, then.

This legislation provides a rare opportunity to make meaningful change in social policy and provide new tools needed to build a more inclusive society. Given that this legislation will likely serve our society for [inaudible] to get it right.

We would like to draw the committee's attention to the recommendations prepared by our provincial organization, Community Living Ontario, in response to Bill 77. Brampton Caledon Community Living echoes these recommendations and believes these recommendations would serve to enhance the lives of people with an intellectual disability and the call-for-action goals of the ministry's transformation initiative. It is recommended that Bill 77 include provisions to recognize the legal capacity of people who have an intellectual disability and provide for supported decision-making in order to ensure that people can enjoy their legal capacity and rights.

Acknowledging and supporting the legal capacity of the individual can be perhaps the most transformative step that can be taken with this legislation. Providing such recognition is essential in order to allow the individual a mechanism through which they can enter into an agreement for direct funding without having to surrender authority to a substitute decision-maker or guardian.

We recommend that person-centred or person-directed planning be added as a funded element that is available to all those deemed eligible for supports and services. Such planning should be made available after a determination of eligibility but before a person applies for services or funding and before his or her needs are assessed. Persondirected planning should be available to the individual on an ongoing basis, whether or not the individual proceeds to apply for support or funding beyond planning.

Person-directed planning should not be carried out by the application centre but by individuals or agencies that are recognized as qualified planners according to standards that should be set through a regulation or policy directive.

In order to address potential conflicts within the application processes and to build on effective processes currently being used, the legislation should make clear that the various functions might be delivered by different bodies within a given region. The various bodies responsible for the administration of the application process must be connected in such a way as to ensure easy access for people applying for support while eliminating any potential for conflict.

To this end, the legislation should refer to an application process rather than to application centres. The responsibility for allocation of funding should remain a direct responsibility of government. The legislation must include an independent appeals mechanism for all decisions related to eligibility and allocation of support. This appeals mechanism should be independent of the application centres and provide for an unbiased third party to consider all appeals. This provision of third party appeal rather than a review should also apply to subsection 30(4), which deals with an agency or application centre for whom the government has elected to appoint a manager.

We ask that the Standing Committee on Social Policy make clear its expectations that the public will be fully consulted on concepts and ideas related to the regulatory framework and policy directives for the legislation before the government undertakes the process of drafting and adopting regulations.

Community Living Ontario's response also highlights issues related to the bill's provisions concerning waiting lists. Brampton Caledon Community Living recommends that references to waiting lists be removed and replaced with a focus on providing adequate funding. The need for waiting lists implies that the funding available to support persons with intellectual disabilities will not be adequate or sufficient to meet the growing needs within Ontario. We are concerned that the institutionalization of waiting lists in legislation will make them acceptable and a part of the system rather than something that must be eliminated in the interest of fairness and the principles of inclusiveness in the community over time. Why should one person receive support and another not?

We are also troubled by ministry statements that no new funding will be provided for the creation of application centres and that these centres will be funded through existing resources. We are deeply concerned that this will come at the cost of cutting services that are already underfunded and under pressure.

I will now hand this over to John Huether.

Mr. John Huether: Just to focus on the waiting list issue for a moment, we'd like to ask that a different

approach to the existence and management of waiting lists be adopted if they are to exist. Transparency, accountability and openness about the waiting lists and the needs that they reflect is essential. The length of wait time and the nature of service that a person must wait for must be tracked publicly so that goals to reduce wait times and increase availability of service can be established, and that's for all communities within Ontario.

If wait lists have to be included in the legislation, then one might consider putting a time limit on their existence, which would then require the Legislature to review their efficacy and how many people have not received services as a result of the existence of the waiting lists, rather than adequate funding.

It is important that goals be established to reduce wait times and that prioritization decisions do not leave persons without supports for long periods of time, regardless of severity of need. A long-term policy commitment toward the provision of essential support to all persons with intellectual disabilities in Ontario without significant wait times should provide the framework for an interim approach to the management of wait lists in such a way that progress towards the goal of full accessibility is achieved over a transition period.

Under the current system of funding allocations for services for persons with intellectual disabilities, there is enormous disparity between communities within Ontario. The allocations of dollars are not related to the needs within communities and they do not reflect the growth in population that has occurred over the past 25 years or that is planned in the next 20 years. The incidence of intellectual disabilities within the population crosses all cultural and socio-economic boundaries and can be expected to occur at the same incidence rate throughout all communities in Ontario. Therefore, the disparity in the distribution of funds through developmental services has a significant impact on the availability of services from one community to another, and there is considerable inequity in the present system that we would like to see the current legislation address in some way.

In 2006-07, there was \$1.131 billion invested in services for persons with developmental disabilities. Using 2007 population figures, this meant that the Ontario per resident allocation was \$88.40. This compares to \$55.10 for the 905/GTA communities of Peel, Halton, York and Durham, where the greatest amount of population growth has occurred. The rest of Ontario, outside of the 905/GTA, had a resident per capita of \$100, while residents of Peel received less than half, \$48.20 per resident.

The result of these disparities is that there are huge numbers of persons with intellectual disabilities who are not receiving service. They're on waiting lists for residential service, respite care and day supports. There are over 600 persons waiting for residential placement. Although in the current Passport program there are 182 persons receiving service, there are an additional 135 persons waiting for service. These kinds of wait lists and time and the unfairness of the funding allocation need to

be addressed through establishing principles in the legislation.

In the long run, the goal in Ontario should be that there is adequate funding to provide support for all persons with developmental disabilities, to allow them to fully participate in the community. However, it is recognized that this goal is long term, rather than an immediate one. In the meantime, together with an accountable and transparent management of waiting lists, the government needs to be committed to creating a fair and equitable distribution of funding to all communities throughout the province.

We would urge that the legislation address this issue of funding equity and include a commitment to the allocation of funding on the basis of a fair and reasonable funding formula that ensures that resources are fairly distributed to all communities for fair and equitable distribution and allocation to individuals. Persons with intellectual disabilities should have similar access to service, regardless of where they live. This cannot happen without funding equity. A commitment to this should be included in the legislation, and the ministry should be expected to develop a funding formula, primarily population-based, that recognizes the need for services for all persons with intellectual disabilities.

We ask that the committee recommend and develop such a formula to the ministry as a support to this legislation.

Thank you very much for the opportunity to make this presentation to you.

The Vice-Chair (Mr. Vic Dhillon): We have just about 30 or 35 seconds for each side, so if you guys can please—

Mr. John Huether: Sorry, I'm having difficulty hearing you.

The Vice-Chair (Mr. Vic Dhillon): We just have time for brief comments from each side. We're going to begin with Ms. Sylvia Jones of the opposition.

Ms. Sylvia Jones: Thank you for putting together your brief. It was excellent, as I expected—

Mr. John Huether: I'm sorry, I'm having difficulty hearing.

Ms. Sylvia Jones: Can you hear me now?

Mr. John Huether: That's better, thank you.

Ms. Sylvia Jones: Okay. Thank you for your excellent brief. I am particularly intrigued by your concept of including goals to reduce the wait lists. Thank you for that suggestion, and we'll work on that end.

Mr. John Huether: Good.

The Vice-Chair (Mr. Vic Dhillon): Mr. Prue.

Mr. Michael Prue: I'm hoping that you'll be able to send us a copy of the brief; we don't have it here. I'm really interested in the disparity in Peel, the amount of money that is being received, and ways of making it fairer across the province. Could you make sure that the clerk gets a copy so we can all have a look at how Peel and other regions are being underfunded?

Mr. John Huether: Yes, we will.

Mr. Michael Prue: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. We're looking forward to seeing your written submission. As has been mentioned, your concerns have been raised by different organizations and groups. Hopefully, after we've finished with this consultation process, we'll address most of these issues.

Mr. John Huether: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you, guys, for taking the time.

Mr. John Huether: Okay. Good luck with your work.
1050

COMMUNITY LIVING WEST NIPISSING

The Vice-Chair (Mr. Vic Dhillon): The next presentation is from Community Living Nipissing. Good morning and welcome to the committee. If you can please state your name, and you may begin.

Ms. Denise Plante-Dupuis: Hello. My name is Denise Plante-Dupuis, and I am here representing Sylvie Belanger, who is the executive director of Community Living West Nipissing, not Community Living Nipissing.

To begin, I'd like to thank you for the opportunity to speak about Bill 77 and I'd like to recognize the Ontario government for its efforts in transforming developmental services and working to create a more inclusive society for all citizens. I'd also like to thank the government for bringing forward this important legislation, which will likely serve society for decades to come.

The proposed legislation looks to address a number of important issues of significance to the developmental services sector. I believe, however, that important changes should be made to the bill that will address the needs of people who have intellectual disabilities. Community Living West Nipissing supports all recommendations brought forward by Community Living Ontario. However, we would like to focus on the matter of application centres and that of living in peace and security.

With respect to application centres, we are recommending that Bill 77 refer to an "application process" as opposed to "application centres." This would allow for the system to address potential conflict within the application process and to build on effective process currently being used. The rationale for this request is based on factors that affect those living in northern Ontario.

As you are aware, relative to the province, the north region is very vast and large. I know this is not new to you; you've heard this already this morning. However, the north region has a higher proportion of elderly people, francophones, and First Nations, as well as higher unemployment and lower income rates. The north region also has a lower percentage of individuals with a post-secondary education and a lower rate of contact with medical professionals. These factors are unique to the north and will directly impact individuals' ability to access application centres.

For instance, should there be only one application centre for the north, travel barriers will exist in regard to accessibility. Many individuals will not have the funds or means for personal travel. Moreover, public transportation is costly and not always reliable or even available in the north. On the other hand, should these centres be virtually based, which in theory sounds great, we need to remember that many people living in rural and remote northern communities do not have Internet access. Regardless of physical or virtually based access centres, it's our belief that more than one application centre may be needed per region in order to accommodate the unique cultural and geographical needs of the individuals living in the north.

In some parts of northern Ontario, there is only one agency within a 100-kilometre radius. Individuals living in those communities know where to go for services as of now, and those agencies are working collaboratively with partnering agencies in neighbouring cities.

Thus, we are recommending that the issue of regional application centres be addressed in the legislation by changing all references to application centres to that of

application process.

With respect to living in peace and security, which is recommendation number 9, we are recommending that the developmental services be identified as a no-strike sector and that provisions be established within the legislation to create an arbitrated settlement mechanism to address future labour disagreements. This recommendation is based on experiences of Community Living agencies that endured strikes and picketing which targeted their homes in 2007. During the strikes, many people were confined to their homes or forced to move from their homes. Neighbourhoods were disrupted by picket lines, shouting, megaphones and whistles. I think we need to ask ourselves, "How would we react to these situations outside of our own homes?"

At Community Living West Nipissing, we want to ensure that the rights of people living in our homes are not violated with respect to living in peace and security. Declaring the sector a no-right-to-strike sector would ensure that such violations wouldn't happen. Moreover, it would ensure that valuable money and time are spent providing support and services. In 2007, Community Living West Nipissing spent three months preparing for the possibility of a strike that never actualized. A lot of time and energy were diverted from management's normal operations. This is time and energy that would have better benefited our programs.

This matter can be addressed in the legislation by incorporating provisions of the Hospital Labour Disputes Arbitration Act with respect to arbitrated settlements. Alternately, a developmental services arbitration act could be considered, with provisions that approximate those under the Hospital Labour Disputes Arbitration Act.

In summary, in order to ensure that the legislation is effective in addressing the needs of people who have an intellectual disability in Ontario, we strongly urge the committee to address the issues of application centres and living in peace and security.

Thank you for your time. I'd be happy to take any questions you may have.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We have about four minutes each. We'll begin with Mr. Prue.

Mr. Michael Prue: On the question of the right to strike, we've asked labour people and they seem unwilling for the most part to give up that right to strike. Have you had discussions with the union at your location or other locations about giving that up, and what would they get in return?

Ms. Denise Plante-Dupuis: I've had a few conversations with our union members. Those whom I have had discussions with have been honest in telling me that when they've been at other agencies that have gone through strikes, they've actually gone and worked as scabs for other agencies because they had their own concerns about the quality of services that the individuals living in these homes were going to be receiving during the strikes. I know when we were preparing for the strikes in 2007, a lot of the staff were very concerned about the people in the homes and how they would react.

I manage a group home for individuals who have not only an intellectual disability but also severe mental illness and challenging behaviours. When we were preparing for the strike, staff were telling me, and I realized, that most of the individuals living in that home would probably be hospitalized in psychiatric facilities because of the commotion that would be caused by the strikes. That's really scary, and it's also going to cost the system a lot more money in the long run.

Mr. Michael Prue: Yes, of course, but I think part of the reason that people resort to strikes—you know that they don't want to, but they do so because the wages are so terrible. Is that not the reason why they—

Ms. Denise Plante-Dupuis: Yes.

Mr. Michael Prue: Okay. So we need to find, I guess, a mechanism, or the government needs to find some money within the body of the bill, to make strikes unnecessary. Would that not be a better thing than taking away the rights?

Ms. Denise Plante-Dupuis: I can only speak for myself on this one, but I would say no, that's not enough.

Mr. Michael Prue: Okay. So you want to take that right away as well.

Ms. Denise Plante-Dupuis: Yes. I think that we're providing an essential service here and it needs to be looked at in that manner.

Mr. Michael Prue: You also talk about the application centres. We've heard this a great many times. We had one presenter earlier today talk about the necessity of having at least six application centres or sub-centres in northeastern Ontario. Would you echo that same comment?

Ms. Denise Plante-Dupuis: I probably wouldn't put a number, I wouldn't identify an exact number, but I do believe that applications should be processed in the same place where the service is being delivered, especially in the north. Like I said, we have a shortage of professionals, physicians. When you are trying to access a service and your application centre could be hundreds of

kilometres away, it's really going to be difficult for those application centres to know the available resources in your community. I think those are issues that are going to be creating a lot of barriers.

Mr. Michael Prue: Over the last number of years, I've had the privilege of travelling with Gilles Bisson around this enormous riding, which is just part of northeastern Ontario, but a big part, and it can take three or four hours in a fast plane to go from Timmins up to Peawanuck. Is there any other way that this can be done? Maybe teleconferencing can work, but I've been in many of those places—Fort Albany, Peawanuck—

The Vice-Chair (Mr. Vic Dhillon): Just very quickly. Mr. Michael Prue: —and there are very few computers.

Ms. Denise Plante-Dupuis: Yes.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Government side?

Mr. Khalil Ramal: Thank you very much for your presentation. It seems like all the Community Living centres across the province of Ontario are doing the same messaging in terms of application centres or process centres. But you know the aim of this bill is to unify the assessment and eligibility across the province of Ontario, and also to study carefully the waiting list and see how we can deal with it. At the present time, the current system doesn't give us that opportunity and ability to examine how many people are on the waiting list. As you know, many families apply in the north, the south, the east and the west, so there is a lot of duplication in the system. In order to have a unified standard system, we proposed the application centres. So you are against it. Can you tell me how we can replace that and achieve our goal of unifying the standard across the province of Ontario?

1100

Ms. Denise Plante-Dupuis: I don't believe I have the one answer. I'm not sure if you're familiar with the networks of specialized care that we have. We have the north network, the south network and the central network. What they're doing is bringing together agencies and communities through teleconferencing. It's for individuals who have not only developmental disabilities, but also the mental health and challenging behaviour component to it.

With the networks, we are developing similar ways of ensuring eligibility and similar ways of evaluating needs in terms of mental health. I think that it's working effectively for that part of the service component that we're offering. I think that maybe it would be looked at to make sure that—if the application process is the same throughout the communities, then I think we're already resolving some of those problems. I don't think it's necessarily that it has to be one centre. As long as the process is the same, I think that a lot of those challenges will be dealt with.

Mr. Khalil Ramal: Yes, but at the present—my colleague has a question.

The Vice-Chair (Mr. Vic Dhillon): Very quickly, Mr. Naqvi.

Mr. Yasir Naqvi: Thank you very much. I just want to pick up from Mr. Prue's comment about the geography and distances being large. I understand the legislation proposes two application centres for the north. Do you think there could be other alternatives by which we can make the process easier for those who need the service, for example, creating an online version of an application centre? That idea was raised in another presentation yesterday.

Ms. Denise Plante-Dupuis: That comes back to my comment about virtual-based systems. No, I don't think that would be effective, because too many communities don't have Internet. So if something's online, they can't access it.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Mrs. Elliott?

Mrs. Christine Elliott: Thank you very much for your presentation and particularly your perspective on the north and the application centres issue. Many people have talked to us about a process, rather than a centre. You've got some wonderful suggestions with the networks of specialized care actually delivering the uniform policy and perspectives through some of the local networks. If that were the case, would you actually even need physical application centres, or do you think you could do it through the networks? I'm just really grappling with how to deal with this.

Ms. Denise Plate-Dupuis: I still haven't, in my own mind, figured all that out, but I'm thinking that you wouldn't probably need the actual centres themselves. I think that, right now, the agencies are already doing it. This would just allow them to do it in a more uniform way.

Mrs. Christine Elliott: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

WOODVIEW CHILDREN'S MENTAL HEALTH AND AUTISM SERVICES

The Vice-Chair (Mr. Vic Dhillon): We're just trying to get in touch with the next folks, who are going to be on teleconference. Why don't we take a five-minute recess here and we'll come back once they're on the line? Thank you.

The Clerk of the Committee (Mr. Katch Koch): I think they're on.

The Vice-Chair (Mr. Vic Dhillon): They are? Okay. Hello?

Mr. Gordon Dunning: Hello. Can you hear me?

The Vice-Chair (Mr. Vic Dhillon): Yes. Can you hear us?

Mr. Gordon Dunning: You're very quiet and we're having trouble distinguishing what you're saying.

The Vice-Chair (Mr. Vic Dhillon): Are you on a speakerphone? No? Can you hear me now?

Mr. Gordon Dunning: We can just hear you.

The Vice-Chair (Mr. Vic Dhillon): How about now? Mr. Gordon Dunning: We can hear you.

The Vice-Chair (Mr. Vic Dhillon): Okay. Good morning, and welcome—

Mr. Gordon Dunning: Would you like us to start?

The Vice-Chair (Mr. Vic Dhillon): Welcome to the committee. If you can state your names, yes, you can start. You have 15 minutes.

Mr. Gordon Dunning: Okay. Thank you very much for this opportunity of speaking with you today. My name is Gordon Dunning. I'm the chair of the board of Woodview. With me today is Cindy I'Anson, who is the executive director of Woodview.

Woodview services adults with autism in the Hamilton region. We're here today in support of the proposed legislation. In particular, we support the new functional definition of developmental disability and the dual funding of services to agencies and individuals.

There are two areas where we'd like to see the legislation strengthened. The first is to ensure that all eligible individuals receive support. The second is to allow appeals of the application centres' decisions to neutral third parties.

I'd now like to turn it over to Cindy I'Anson to further develop those thoughts.

Ms. Cindy I'Anson: Woodview has been providing children's mental health services and autism services since 1960 in the communities of Brant, Hamilton and Halton. We provide a full range of children's mental health services, including counselling, educational programs and therapeutic recreational programs in the community, in people's own homes, in schools and in our own residential program. We also provide a range of services to children with autism, including a special school, IBI programs as well as respite, social interaction and recreational programs. Since 1988, we have provided independent living programs to adults with autism.

Autism is a lifelong disability. Individuals have difficulties with social relations and communications, and engage in repetitive thoughts and behaviours. Adults with autism have difficulties in verbal and non-verbal communication, social interaction and in completing the activities of daily living. Many individuals with autism have normal or above-normal intellectual abilities, as measured by traditional IQ tests. Our adult autism programs provide opportunities for social interaction and development and assistance in learning the essential skills to perform the activities of daily living. Our goal is to have each individual live as independently and productively as possible with the minimum level of support. We are seeing an increasing demand for our autism services for children and youth in our communities. We recently received additional government funding to enable us to provide more services to meet this need. We are now providing IBI services for young children and, in Hamilton, we are providing social and recreational programs funded through a ministry respite initiative. These programs complement special services that some local school boards are able to provide.

As this population of children and youth ages, they will require services to transition to adulthood and to develop the skills to live independently and have productive lives. This need for service is made more critical as families lose the support they receive through the school system at age 21. We are well positioned to meet these adults' needs. We have provided social, recreational, vocational and independent living skills programs for adults with autism for the last 20 years. Many of the individuals we serve have been unable to obtain services elsewhere, despite their obvious disability, because of their normal intellectual ability, as measured by traditional IQ tests.

We are fortunate that in the Hamilton community we have received government funding for these programs. We've been able to develop a small but innovative program that has been internationally recognized. However, to meet the anticipated increase in service demands, we will need an additional source of funds. Our current programs, initially serving 12 individuals, are now providing support to more than 60 adults with very little increase in funding.

We do support the change in definition of "developmental disability." One of the hurdles to funding has been the narrow definition in the legislation for developmental disability. Many individuals with autism have no intellectual impairment, but their pronounced social communication impairments, together with their repetitive thoughts and behaviours, lead to great difficulty in carrying out the ordinary activities of daily living.

We are pleased to see that the new definition of "developmental delay" in the proposed legislation focuses on levels of functioning. This will ensure that an individual's IQ level is not an artificial barrier to them receiving service. We strongly support this change in the legislation.

We note that the legislation provides for designation of application centres and the issuance of policy directives for administration of the act. In order to ensure that the intent of the act is carried through in the policy directives, we believe that the act should be strengthened to ensure that all individuals who meet the eligibility requirements of the act receive support. Without this, there is a danger that all funds will be allocated to those considered most in need. Other individuals whose needs are real but less expensive may be denied a chance of a meaningful, productive life.

We would welcome the opportunity to be included in a consultation when policy directives are being drafted, in particular, with respect to those related to eligibility and method of assessment, resource allocation, and the priorities for funding.

1110

We also note that there is no appeal of the decisions of an application centre to a neutral third party. We think that the legislation should be amended to ensure that the application centres are accountable for their decisions.

We do support the proposed dual funding model. Funding service agencies allows for the provision of basic services and the maintenance of essential service infrastructure. Providing direct funding to individuals allows them to choose services that best meet their individual needs. We believe this will encourage agencies to provide high-quality, cost-effective services.

If the new legislation is to be effective, there needs to be adequate funding provided. We appreciate the competing demands that are placed on government for funds; however, the cost of not providing adequate services to adult developmental services is high. Many adults with autism are capable of working and contributing to their communities, but only with the right support. Adults with autism whose only support is their immediate family often become isolated and their support needs increase. This places an unacceptable emotional and financial burden on the family.

Mr. Gordon Dunning: In conclusion, we strongly support the direction of the new legislation. We hope we will have the opportunity of working with the government to ensure its effective implementation.

At Woodview, we have 20 years of experience in providing cost-effective solutions to supporting adults with autism and helping them lead productive lives. We'd like to help to meet what we know is a growing demand for services for the adult autism population.

Now, we'd be pleased to answer any questions that the committee may have.

The Vice-Chair (Mr. Vic Dhillon): The government side.

Mr. Dave Levac: Hello, it's Dave Levac, MPP for Brant. Thank you very much for your presentation and your support for the legislation. I can only tell you, as strongly as I've been involved with Woodview over the years—my 25 years of teaching led me to membership on RPAC—Woodview's success and my own personal experiences with Woodview regarding the students that I was in charge of through RPAC, Project X and all of the other good work that Woodview and others do in the community; we want to thank you. I really will advocate on your behalf to participate in the formation of the rest of the bill and the regulations and the input on that. I will make sure that I dedicate myself to ensuring that your voice is heard.

You did mention some things that I think are important for us to recognize in the legislation, and that is for the future. We have an issue that's been long-standing about autism—but we now need to kind of be inclusive in this piece of legislation—that when these students and kids become adults, there is considered to be a drop-off in terms of our capacity to lend assistance. I think you're identifying the fact that that's a possibility, so I appreciate that.

What's your take on the costs involved in the services that you provide for adults with autism, so that we can get a gauge on the kind of services that can be provided through this legislation?

Mr. Gordon Dunning: We'd be very pleased to talk to you about that. Within our program in Hamilton, we have indeed got many years of experience of supporting adults with autism. What we have found is that our transition program can prepare adults for more independent living and to require fewer services. It really does depend on the level of functionality of the particular individual. Some individuals need a fairly low level of support; they need recreational programs so that their social skills remain high, and they need some active monitoring to make sure that they can cope with life's crises as they come along in new situations. There, you're talking about quite modest levels of funding which are required to maintain those individuals. Clearly, other individuals need daily support, and those are more costly. So we'd be pleased to provide the committee with—

The Vice-Chair (Mr. Vic Dhillon): I apologize; we have to move on. We'll be moving on to the official opposition.

Mrs. Christine Elliott: My name is Christine Elliott. I'm one of the Conservative members of the committee. I think you've brought a really valuable perspective to the committee today, that of adults with autism, because it tends to be a group that I don't think we always think of. It doesn't get slotted into any easy category. When we speak of people with autism, we tend to think of children, so your perspective is very valuable and much needed. And I agree with you; it should be a functional definition, so as to be able to include many adults with autism who might not have an intellectual disability.

The other comment that I'd like to make is with respect to your comments that there are not many social, recreational or vocational opportunities out there for people with intellectual disabilities or autism. We're hopeful that with the direct funding aspect, if the planning component was also included in that, that would assist in helping those individuals find those opportunities.

Do you have a perspective on the independent planning aspect of it, whether it's needed or not?

Mr. Gordon Dunning: We do support the dual funding model which is outlined in the legislation. Agencies such as our own do need direct support so that we can have the infrastructure in place, but we also believe that giving individuals or their immediate caretakers access to individual funds allows them to select the right service at the right time for those individuals.

The Vice-Chair (Mr. Vic Dhillon): Mr. Prue.

Mr. Michael Prue: It's Michael Prue here. I just have some questions around an appeal. You talked about an appeal process. How do you envisage this? Do you think that a separate body needs to be set up? Would we do it through the Ombudsman's office? What kind of appeal are you talking about?

Mr. Gordon Dunning: We hadn't really formed a view. It was really just a governance issue which we were picking up on, in that the application centre seemed, under the legislation, to be reviewing its own decisions, and that's never a good governance structure. The Ombudsman's service might be the correct mechanism, but we haven't really thought that through completely.

Mr. Michael Prue: You also made a comment about servicing all individuals. There is a provision in the act talking about wait lists. Are you concerned about the fact that this is embodied in the legislation?

Mr. Gordon Dunning: Yes, that is one of our concerns. Even if some of the individuals whom we service or we'd like to service are eligible under the act, will they just simply get stuck on a wait list? What are the provisions going to be to make sure that all individuals get the right level of service?

Mr. Michael Prue: That would then come down to funding, and that's really not part of the bill; it would be part of the budget process, probably to follow the bill. Has your group given any thought or indication of how much additional funding would be necessary to service all the individuals, say, in your catchment area? How much more money to service all and get rid of the wait list in your area?

Ms. Cindy I'Anson: That would be difficult to say at this point. Part of the issue is that we have a specific program for adults with autism, which is unique across Ontario, at least. So I think that part of the issue is that there aren't even enough services in the rest of the province. We've been taking people from all over the place—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Ms. Cindy I'Anson: —so it would be hard to pin down. We could certainly try to figure that out, but at this point, I wouldn't be able to answer that.

The Vice-Chair (Mr. Vic Dhillon): Thank you.

Mr. Gordon Dunning: Our concern is—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much for your presentation. Time's up. I didn't want to be so abrupt. We really appreciate you taking the time. Bye, if you're still there.

That is the end for this morning's session. We'll break now for lunch, and we'll be back at 1 o'clock in this room.

The committee recessed from 1120 to 1244.

AUTISM ONTARIO

The Acting Chair (Mr. Dave Levac): Okay. Thank you very much for the provision of lunch. We appreciate it very much, on behalf of the committee.

We appreciate the fact that Mr. Doug Reynolds, the past president of the adult issues task force, is here to speak to us on behalf of Autism Ontario. Mr. Reynolds, thank you very much for the time that you've spent getting here. We definitely appreciate it. I quickly had a little chit-chat with you and we talked how about it's typical for the north to understand what that kind of travel is all about. Thank you for being here, and you have 15 minutes. For the record, please identify yourself and what group you're representing, if at all. If you use all your 15 minutes, then there won't be time for questions and answers. If you'd like to leave some time at the end for some dialogue, that's your prerogative.

You may begin, and thank you very much for being here, Mr. Reynolds.

Mr. Doug Reynolds: Thank you for the opportunity. I'm Doug Reynolds; I'm here on behalf of Autism Ontario. I do hope to keep my formal remarks, such as they are, to substantially less than 15 minutes and offer some opportunities for dialogue. I deliberately do not intend to repeat the material that was part of the submissions made by Autism Ontario or indeed by other groups like Kerry's Place Autism Services, whose submissions I've seen and certainly concur with.

Rather, what I'd like to do is use the few minutes available to me to give you some perspective that is perhaps more anecdotal, more immediate, more personal, based on my own experience and the experience of folks I've spoken with who deal with issues of individuals with various developmental disabilities, primarily autism,

which is my perspective.

By way of introduction, I was for many years a member of the board of directors of Autism Ontario and chair of that board for three years during the late 1990s, and also very actively involved on the original adult task force of Autism Ontario back in the early 1990s and the subsequent adult issues working group that has been ongoing for the last several years.

I come to this perspective as the parent of a child with autism. I have a son who is 25 years old, finished school and living at home. Some of my reflections will be based on either personal experience or experience of other parents. I hope that that perspective, to complement the more formal perspective you will have received

elsewhere, will be helpful to you.

I'd like to reflect on what I see to be some special challenges of northern Ontario, and perhaps northern and rural Ontario, and how that might be reflected ultimately in a legislative and policy framework to provide services for adults with a variety of developmental disabilities.

I guess I'd like to start with a personal observation. Although historically there are and continue to be what would be identified as funding issues, I do not see this as primarily an issue around funding and resources. I see it at least as much as an issue around how resources are allocated and used and how the structures are put in place to facilitate services.

As I indicated earlier, I have a 25-year-old adult son with autism. Although we receive some funding for provision of services for him, and that is welcomed and helpful, I should point out that whatever programming he receives, he receives because we have gone out into the community, identified opportunities and structured programs for him. There are no formally structured programs available for him or indeed most adults anywhere on the spectrum of developmental disabilities in much of northern and rural Ontario and probably much of Ontario.

There are problems within the system for the average parent related to our ability to deliver services. My wife and I are both university graduates, both in the social sciences; we are reasonably capable of structuring a custom program for our son. We are probably the ex-

ception. For the average parent, just navigating the system of funding, let alone structuring programs, is hugely onerous.

I'd like to reflect on some of my observations around why this is a challenge. Certainly the model that we've used historically in Ontario, not only for social services but for health, education and many other critical services, is based on a community agency model, where we facilitate and fund community agencies for the delivery of services. I would suggest that we have historically made those models work more effectively in the realms of health and education than we have with respect to social services. I think some of the fundamental difficulties we face are how we facilitate what is, I believe, an excellent model of community delivery of services. How do we build into that model not only the necessary expertise in more remote areas but accountability, standards and just some reasonable assurance that services of some quality will be delivered?

I would suggest this is not unlike the evolution that we went through in education in the early 1980s. When we moved special education and individuals with disabilities into the mainstream of our classrooms, we went through some teething difficulties, but we made a fundamental policy change which was to say that we would provide a level of service, we would mandate a minimum level of service, and we would see to it that the community agencies, namely local school boards and local school systems, were capable of delivering on that service.

1250

So I would say that the one characteristic that is much applauded, and that I applaud, in this bill around portability of funding and the ability of parents and other caregivers to have and exercise a greater degree of control is a two-edged sword, because if we cannot provide quality services and accountability in our communities, what are we left with?

The other thing I would point to is that in our smaller, more rural communities, we are often in, frankly, a single-service-provider scenario. That service provider is usually a provider of more generic developmental services.

I'll reflect on a personal story here, very briefly. I don't intend this as an attempt to bash a particular agency, but rather to illustrate some flaws in the system.

My son was, for a period of time, in a day program offered by a local agency. Because of our location and the nature of the north, it was about an hour's drive each way to get him to the program. We received a phone call quite abruptly to say that they had difficulty handling him and he could only remain in the program if we were willing to undertake to pick him up at a moment's notice if he became disruptive or difficult. When we subsequently raised some other concerns about the program, particularly a lack of structure and supervision—the incident that led to it, by the way, was that he was in a bit of a workshop setting and he was to cut rags with a ragcutting machine. He's very adept with machinery and likes that sort of thing. When he ran out of rags to cut and

there was nobody around to provide him with more, he found another resident's sweater and cut it up. This disruptive behaviour, unfortunately, as ironic as it sounds,

got him turfed from the program.

More importantly, though—and again, I don't mean this as a slight on the program—they are the only service provider. When I raised greater concerns, and subsequently they were investigated by the ministry, their funding partner, it was made clear to me by everyone concerned, and I certainly knew from experience, that I had burned my bridges. I can never go back to that agency. I am persona non grata. In fact, when I first began raising concerns, all subsequent communication with them came from their legal counsel rather than their staff.

Again, I say that by way of illustration of the reality of the world that we caregivers live in and the environment that's created by having a single-provider environment, or a very limited environment, with wait lists and other things that limit access to service.

In any case, I think I should probably stop here and take advantage of any opportunity to address questions

you may have.

The Acting Chair (Mr. Dave Levac): Thank you very much, Mr. Reynolds. You have left us with a few minutes. I'll divide that up evenly and we'll go into the rotation, which I have down as Mr. Prue from the NDP. Just a minute and a half, or so, Mr. Prue.

Mr. Michael Prue: I thank you for the anecdotal stuff because it brought home the difficulties in the north. Other than setting up new agencies, what can we do in sparse populations? I'm particularly thinking in northern Ontario of some of the First Nations communities that are isolated and have children with autism or developmental disability. What can we do? Have you any suggestions?

Mr. Doug Reynolds: My immediate suggestion would be a more aggressively proactive role on the part of the ministry in terms of supporting and facilitating the development and emergence of new agencies within

communities.

I attended a public consultation that about 60 or 70 folks showed up for, where the overwhelming consensus—this was in Sudbury—was that we need all-day programs for our kids across the spectrum. It was suggested, and I had some subsequent conversations with my MPP, who was very supportive, but the fact is that unless a group of us parents get together and have enough interest and focus and understand how to work the system and go approach the ministry and get the ball rolling, it's really a very onerous undertaking.

So what we need, I guess, is some leadership and facilitation, because I believe that the local delivery model is fundamentally sound, but that model needs to be

better supported.

Mr. Michael Prue: Thank you.

The Acting Chair (Mr. Dave Levac): Thank you very much, Mr. Reynolds and Mr. Prue. I will turn to the Liberals and Mr. Ramsay.

Mr. David Ramsay: Welcome, Doug. Good to see you again. We've worked together in the past, each of us

wearing different hats. It's good to see the work that you're doing here, and thank you very much for travelling to Timmins and giving us your advice.

I wanted to follow up on Mr. Prue's question, because this is always a concern. As a fellow northerner, of course, in any professional need that we have up north, especially in health care, it's no longer an issue with retaining and recruiting doctors, as you know; it's the whole spectrum of health care workers, and with social workers too. You're talking about more about specialty types of skills, and I think that's going to be a real challenge for rural and northern Ontario. If you have any other perspective on that, how we need to do that—I take your point from the initial answer about maybe the ministry getting a little more proactive in that, and that may be the way to go. I just wondered if you had any other perspective on that.

Mr. Doug Reynolds: The further perspective I would offer is that when I observe the spectrum of services available to adults, particularly with autism, in Ontario, what I am struck by is that we have everything from absolute excellence—I look at organizations like Kerry's Place Autism Services or Woodview Manor, which really represent the gold standard. They quite clearly are not equipped to offer a province-wide service. I think we need to look at methods of turning those organizations into centres of excellence, if you will, that will provide training and support, because I don't believe we have the critical mass, for example, to create specialized autismspecific agencies in our northern and rural communities. I think what we need to do is not duplicate administrative structures but take our existing generic service agencies and provide the means to allow them to develop subsets of specialized services for autism and perhaps in other areas, taking advantage of the very significant expertise we have in places like Kerry's Place and facilitate in the knowledge transfer.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. Ms. Elliott?

Mrs. Christine Elliott: I'd also like to thank you, Mr. Reynolds, for travelling such a distance today to meet with us and give us your personal perspective on the challenges that you and your family and your son are facing.

I was really interested in the comment you made about how you and your wife are able to plan for your son because you go out into the community and you're the one who seeks these things out. One of the suggestions that's been made to the committee is that there be some element of planning facilitation that will help not just with traditional service agencies to provide services, but also to help in terms of achieving one's personal goals and dreams and achieving the goal of social inclusion into the community. Is that something you would agree with as well?

Mr. Doug Reynolds: Absolutely. I'm glad you raised the issue of social inclusion, because I would say, for example, in terms of the self-directed program that we've created—and I agree that support to help other people

who may have less experience in the area do that would be very helpful. But what is lacking is that social inclusion. We can hire a one-on-one worker and he can take my son and have him engage in a variety of community activities. What he does not have, which he had when he was in school and which all of us who work in our various jobs have, is a consistent social milieu into which he goes regularly and participates. He continues to ask, "Why don't I go to the centre any more?" and, "When are you going to find me another centre to go to?"

So this sense of lack of social inclusion and the lack of a regular environment—he's self-aware enough to know that he's missing something, and I think that's probably fairly typical. So that is a real challenge. That's why something as fundamental as some kind of structured day program, which is not a complex, costly, difficult thing to do, would be such a huge benefit in many communities.

Mr. Khalil Ramal: On a point of order, Mr. Chair: I wonder if I can ask questions, since he travelled a long distance and there's nobody here yet to do the presentations? Is that possible?

The Vice-Chair (Mr. Vic Dhillon): Do we have unanimous consent?

Mr. Michael Prue: Are they on the phone? I don't want to keep them.

The Vice-Chair (Mr. Vic Dhillon): I agree with you, Mr. Prue.

Thank you very much.

SHEILA ZHANG-SMITH

The Vice-Chair (Mr. Vic Dhillon): Do we have the people on the phone? Hello.

Mrs. Sheila Zhang-Smith: Hello.

The Vice-Chair (Mr. Vic Dhillon): Hi. Welcome to the committee. Good afternoon.

Mrs. Sheila Zhang-Smith: Thank you. Good afternoon. First of all, I would like to thank everyone on the committee for—

The Vice-Chair (Mr. Vic Dhillon): I would like you to please state your name for Hansard.

Mrs. Sheila Zhang-Smith: It's Mrs. Sheila Zhang-Smith. I'm the president of CUPE Local 2936.

The Vice-Chair (Mr. Vic Dhillon): That's fine. You may continue. Thank you very much.

Mrs. Sheila Zhang-Smith: Thank you. First of all, I would like to thank everyone on the committee for allowing us, as voters, to come in here and speak up regarding this proposed bill.

I want it to be known that three years ago I was brutally attacked and as a result I suffered traumatic acute brain injury. This happened a number of years ago in another workplace.

1200

1300

For those of you who do not know what this means, it means that while I'm currently working with developmentally delayed individuals on a full-time basis, I'm also in receipt of the Ontario disability support program, which means that the government takes back 50% of

what I earn. It also means that I understand what it's like to have challenges in my day-to-day life. I was diagnosed at the age of 30. If I were diagnosed after this bill passes, it would not apply to me. What would happen to the supports I may need then? Anyone can get a brain injury at any time. If it has a long term, then the person will likely always need support.

I have had people read me the bill a number of times so I could work to understand it. Since then, I've been out on the streets meeting people with children who have disabilities all across St. Catharines and Collingwood showing the ministry's Spotlight newsletter, the proposed bill and the issues raised by both CUPE and OPSEU. I was shocked that hardly anyone even knew it was being considered and there are people that still will be affected. If this bill were to pass, a lot of these people I spoke to would be affected.

People are really worried about having to go through reassessments. What if we lose service or service has to be rolled back? Even if this is not likely going to happen, the thought that it is a possibility is really stressful. I work with a few supported people who, every time they even need to attend a dentist's appointment, suffer anxiety to the point that they have to take medication just to get through the ordeal.

We do not deserve this at all. Why would you guys consider taking money from the people who deserve it the most and who depend on this assistance to survive? It should not even be a possibility.

Also, too many people have been waiting periods of years, so what about these long waiting lists? What is the guarantee that everyone will receive legitimate services that they deserve? Many people will likely have to resort to hiring brokers to get services we have already had to some degree in agencies. Why would the government not just give the money to the agency to provide the service?

From experience, I know that sometimes with these brokers, they send us to companies who want to make a profit, and we end up getting the short end of the stick and suffer with people who don't care about us as individuals; rather, they just show up for the money.

I'm concerned about a system where there's not enough accountability. Agencies do a good job doing their work; why do we need someone else to do it? Workers going into homes must be trained and held accountable. There are people and their families who can be taken advantage of. If we have to do direct funding then we suffer again because we don't have a lot of money given to us already for the services we require. The agencies that we have in place right now work very hard with us and love their jobs. Also, there are people I spoke to whose families have all died and they have no one else to assist them in their day-to-day living; they are also not capable of surviving without the daily assistance from their workers. Without workers, they won't survive, and in the end they're going to end up on the street.

I don't understand how this bill would help anyone in the long run, since we are out of options for services because there are not enough of them. It is my thought that we do need to change some of the things written in this proposed bill before we pass it. We need to ensure that it's 100% in understandable language since, again, a lot of the people this bill would affect have language barriers or do not quite understand what's going on here at all. It is the government's job to ensure the safety of the people who voted them in the office in the first place. I know first-hand what it's like to have someone who is only caring for me for the money to be the one responsible for giving me my care. I sat through many hours where the caregiver was not attending to my needs, and it is my thought that the workers at Community Living are there to give me my very best. I think this bill should support agencies being strong. It is not like this bill will allow for equal opportunity with everyone; there are not enough services.

Will we, too, have to endure the same negative impact that the home care systems are going through currently or even in the past? I have letters to give you from people I spoke to who have concerns and are asking questions. There are a lot of questions that still need to be answered and changes that need to be addressed with this proposed bill. Thank you for your time today.

The Vice-Chair (Mr. Vic Dhillon): We'll start with the official opposition.

Ms. Sylvia Jones: Sheila?

Mrs. Sheila Zhang-Smith: Yes.

Ms. Sylvia Jones: My name's Sylvia Jones. I'm with the Progressive Conservative Party. Thank you for your presentation; I think you raised a very valid point about the age restriction and how that needs to be removed. Also, your comments about the waiting lists being put right into the legislation without any goals or expectations of trying to decrease them are valuable points. I appreciate those. Thanks.

Mrs. Sheila Zhang-Smith: Thank you.

Mr. Michael Prue: I want to commend you for taking the time to read this bill. It's about four inches thick and it's very complex—and your friends, too, for explaining it to you.

I want to get back to one of the first things you said about being brutally attacked and then on ODSP and them taking half of your money off you. How does that affect your ability to obtain service for yourself?

Mrs. Sheila Zhang-Smith: It means that I have to work more hours at my full-time job in order to provide for my needs to obtain these services.

Mr. Michael Prue: So you have ODSP, plus you work full-time as well?

Mrs. Sheila Zhang-Smith: Yes.

Mr. Michael Prue: So the job must not pay a great deal of money, because if it did, you wouldn't be getting ODSP at all.

Mrs. Sheila Zhang-Smith: Right.

Mr. Michael Prue: Okay. So this has been, I guess, a very difficult period for you since you were attacked.

Mrs. Sheila Zhang-Smith: Yes.

Mr. Michael Prue: You said you wanted the bill to be in understandable language. I think almost every Ontarian would agree with you on this bill, and every other bill, that it should be readable. I'll just leave it at that. I think all of the government members have heard that. Maybe we should have more people writing bills who are not lawyers.

Mrs. Sheila Zhang-Smith: Right. I agree. Mr. Michael Prue: Okay. Thank you.

Mr. Dave Levac: Thank you very much for your presentation, ma'am. I want to thank you also for going public and explaining the circumstances of your experience to give people a better understanding of the situation.

You mentioned a little bit about the funding and that you're concerned. Other organizations similar to the one you represent speak about parents not having the capacity, experience, knowledge and understanding of the services, that they might not be able to use the money in a way that is appropriate, that you figured they should be doing it. Can you explain in more depth why you believe parents would not have the capacity to take that funding from a direct source and distribute it to a service that they require?

Mrs. Sheila Zhang-Smith: A lot of the people I work with have seniors for parents, or they don't have parents. Therefore, they're not able to maintain the knowledge on where to go or who to speak to, even. It makes it even harder for them when they're having to deal with their own lives and trying to adapt with the funding that they receive themselves. Or the ones who don't have parents, who do they go to? That's what I meant.

The Vice-Chair (Mr. Vic Dhillon): Go ahead.

Mr. Khalil Ramal: Khalil Ramal from the government side. Thank you very much for your presentation. I know you brought to us a different perspective on the bill. As you know, the aim of this bill is to create a choice and broaden the services for many families across the province of Ontario. This was the aim of direct funding. If the person, family or any individual chooses not to take it, they have a right not to take it and belong to an agency or community centre. So don't you think it's important to bring this issue forward and pass the bill?

Mrs. Sheila Zhang-Smith: Sorry, could you repeat that?

Mr. Khalil Ramal: I said that it's the aim and goal of the bill to broaden the service for people with disabilities. That's why we introduced the bill. That's why we're travelling the province of Ontario to seek input from many different individuals, organizations and agencies. We want to create a choice for families. If they choose to take that choice, that's fine. If they don't, they can keep getting services from the agency they like. So don't you think it's important to create those choices?

Mrs. Sheila Zhang-Smith: It's important if every-body has the same knowledge. You said that you guys have travelled all over Ontario informing people. Yet, I just told you that I've spoken to people in both St. Catharines and Collingwood who have no idea about this bill at all. I've got 700 written submissions that I have to submit to you guys from people who have never even heard of this bill. So how is it possible that you've visited

everybody, if I've spoken to 750 people in a matter of two weeks that have no clue what I'm talking about?

The Vice-Chair (Mr. Vic Dhillon): It was advertised. Mr. Khalil Ramal: It was advertised in the media: television, radio and also in the written media. It's impossible to cover every inch—

The Vice-Chair (Mr. Vic Dhillon): And on the legislative channel.

Mr. Khalil Ramal: And the legislative channel also advertised it for a long time. I agree with you that you cannot cover the whole province, but we're talking about creating choices. This is what I'm saying: We heard many different families who came forward and told us that they support this bill because this bill gives them a choice. Some other families don't want choice. This is about creating choices.

Mrs. Sheila Zhang-Smith: What choice do the people have who don't have family members? That's what I'm asking. If all the services are gone, they have to go through—

Mr. Khalil Ramal: They can remain with agencies in the community, wherever they feel comfortable to receive the service from—

Mrs. Sheila Zhang-Smith: The ones who are still on the waiting list—what about them? Who do they speak to once they're reassessed if all the services are gone? We barely have enough now. What do they do? They're going to be forced to hire the brokers.

Mr. Khalil Ramal: It's important in this bill to see how many people apply, because at the present time in the current system, people apply in many jurisdictions. That's why the waiting lists are packed. Hopefully, when we pass this bill, it will give us an idea of how many people are sitting on the waiting list, and we can address it in a professional and efficient manner.

The Vice-Chair (Mr. Vic Dhillon): I'd just like to point out that the deadline for submissions is August 12 at 5 p.m. Maybe that information will help, Sheila. If there's anybody else who is interested in making a submission, and as well as yourself, as you have some submissions, please forward them on to us.

Mrs. Sheila Zhang-Smith: Yes, I started the faxing into the numbers with the different paperwork that I have three days ago. They're still coming, and I've let everybody know.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Mrs. Sheila Zhang-Smith: You're welcome.

PROVINCIAL NETWORK ON DEVELOPMENTAL SERVICES

The Vice-Chair (Mr. Vic Dhillon): Do we have the next folks on the phone? Hello?

Mr. Geoff McMullen: Hi, it's Geoff McMullen here from the Provincial Network.

The Vice-Chair (Mr. Vic Dhillon): Good afternoon, Mr. McMullen. You have 15 minutes. Any time that you

do not use will be divided up amongst the three parties. You may begin now.

Mr. Geoff McMullen: Okay. Thank you. I'm speaking as chair of the Provincial Network on Developmental Services. The Provincial Network is an affiliation of provincial organizations representing 250 agencies and families that provide supports to individuals and families in the developmental services sector.

We certainly believe that Bill 77 is poised to address a number of important issues that affect the lives of people who have a developmental disability. The Provincial Network supports many of the positive changes that have been proposed and is eager to work together with its partners and the government to make sure the bill creates a progressive framework for the transformation of developmental services. We certainly support the government's attempt to develop better tools for understanding resource needs in the sector. We support enhanced accountability measures that may contribute to better outcomes for people and certainly the closure of the remaining institutions. It has been decades since the last major changes were made to the Developmental Services Act. The changes that are proposed today are likely to affect the lives of people who have a developmental disability and their families for generations to come.

I would like to emphasize that the Provincial Network has reviewed, discussed and endorsed all the recommendations for Bill 77 that have been made by its member organizations. Over a short period of time, community organizations have mobilized their resources to develop an understanding of Bill 77 and its implications for people and their families.

The Provincial Network has identified five key priority areas for making improvements to Bill 77. We believe that these changes will result in a piece of legislation that is on the cutting edge of international policy and has the longevity to serve Ontarians for decades to come. While time only permits me to briefly address these five priorities, I would like to direct your attention to the brief that we have submitted for a full list of recommendations endorsed by the Provincial Network.

I would like to start with the changes that we are seeking that are related to the rights, dignity and personhood of people who have a developmental disability. A legislative framework that is truly transformative would enhance the autonomy of people who have a developmental disability and ensure that people's rights, dignity and personhood are protected. There are a number of measures that could be included in Bill 77 to ensure that this is so. People who have a developmental disability should enjoy the same privacy and peaceful enjoyment of their homes as other citizens. This sense of safety, security and self-control was severely disrupted for many people during strikes that occurred in the summer of 2007. Many people had their homes picketed in the course of disputes between unions, agencies and government. The people who were most negatively affected by these actions were people who were essentially powerless to affect the outcomes of the dispute.

Bill 77 should include measures that will address the chronic underfunding of wages in the sector and should prevent such disruption and intimidation from ever occurring again. People who are supported to live in the community should not be subject to intrusion of their privacy for the purpose of inspection, except under authority of warrant. As proposed, Bill 77 would prevent people who have a developmental disability from enjoying the same rights to due process enjoyed by all citizens. Affiliates of the Provincial Network have not been able to identify a single instance where an attempt was made to gain access to a home that is supported and operated by an agency and access was not granted. Such inspections should only be permitted with the consent of the occupant or under authority of warrant. Standards of accountability should extend to the quality of outcomes and satisfaction that a person experiences as a result of the supports that they receive.

While Bill 77 establishes a review process for decisions related to eligibility, there are limits to the fairness and review that are conducted internally. The proposed legislation should enact a process by which a person can make an appeal to a third party related to the various stages of decisions by which a person's supports are determined. Planning for life in the community can assist a person to secure their independence and autonomy in the application process. A primary aim of transformation is to ensure that people have control over their lives. Good person-directed planning can assist a person to reclaim autonomy by drawing on the supports of family, friends and community to explore all the options that may be available to them before making a formal application for support. We have emphasized the importance of planning as a separate priority, and I will talk about this later.

Recognizing that people who have a developmental disability have a legal capacity may be one of the most transformative steps that could be taken in the proposed legislation. The introduction of direct funding in Bill 77 has the potential to enhance the autonomy of people who have a developmental disability and to ensure that supports and services are fully accountable to the person. This will only be the case if provisions are made for recognizing the legal capacity of people who have a developmental disability and for recognizing that people who need assistance in exercising their legal capacity can be supported to do so. The concept of supported decision-making is recognizing that a person can enrol the support of those they trust to assist them in making and articulating decisions. Supported decision-making has roots in Ontario and has recently been adopted in international law through the UN Convention on the Rights of Persons with Disabilities.

The second priority area that we have identified is related to the scope and vision of the legislation. There has been broad agreement among the stakeholders that Bill 77 would benefit from statements that communicate the purpose of the legislation and the vision for social change that it aims to achieve. This could be accom-

plished by changing the title of the bill and by including a preamble.

The title plays an important role in setting the tone and intent of the legislation. The current title speaks only to the provision of services. While the ministry funds services for people, the intent of those services is to support people to participate in a full life in their community. The current title identifies services as an end goal rather than as a means to support inclusion in society.

Many acts also include a preamble that articulates the vision, scope and purpose of the legislation. There are acts passed by this government that include preambles, such as the recent Long Term Care Homes Act and the Human Rights Code. Bill 77 promises to fulfill the vision of an inclusive society where the people who have a developmental disability enjoy the same rights and privileges as all citizens in Ontario. A preamble should capture this vision and recognize people who have a developmental disability as valued citizens.

Our third priority is to address the application centres proposed by Bill 77. The concern about application centres has been voiced consistently across the province. Over the past 10 years, considerable efforts and expense have been made to improve access, to coordinate supports and services regionally. Many positive practices have emerged, and partners in the developmental service sector are anxious to build on these practices rather than cast them aside in favour of a new system.

There are also concerns about the governance of the application centres. If enacted, application centres will exercise a considerable amount of power over the lives and interests of people who have a developmental disability and over service providers. Bill 77 does not reveal its plans for composition of the board of directors for an application centre, other than to indicate that it may be a service provider or a corporation.

Further concerns have been voiced about the conflict of interest that will inevitably occur by charging one organization with an extensive list of responsibilities, including determining eligibility, administering an application process, assessing needs, setting priorities, allocating and distributing funds, making referrals to agencies, monitoring quality and satisfaction, holding waiting lists, and so on.

One important conflict of interest is that the mechanism that allocates funding should not be held by the same body that determines what a person's needs are in the first place. Needs are needs and should not be influenced by resource availability. The Provincial Network supports the creation of application processes that provide an initial point of access to supports, opportunities for data collection and a mechanism for system planning.

Many of the concerns about the proposed application centres are based in the understanding that a broad list of functions will be held by a single body. The legislation should make clear that the various functions envisioned as part of the application centre could be held by different bodies within a given region. To avoid confusion,

the legislation should refer to an "application process," rather than defining it by a location. This would allow the elements described under the application section to be delivered by different bodies. The Provincial Network believes that the responsibility for allocation of funding should still remain a direct responsibility of government.

Our fourth priority is to seek changes to Bill 77 that will ensure consistency in the quality of supports. Making direct funding available to people who have a developmental disability is consistent with the concept of self-determination and choice that is fully endorsed by the Provincial Network. However, implementation of direct funding programs should be undertaken with the understanding that offering a mechanism for direct funding is only one element of the policy framework in which successful direct funding programs have operated. In order to ensure the best quality and supports under direct funding, a number of issues must be addressed. Clear standards of accountability and compliance should be put in place and applied consistently across all the funding streams. The accountability measures in Bill 77 appear to be more rigid for agencies than for other streams of funding. The Provincial Network is concerned that lower standards and accountability for third party and for-profit service providers will result in receiving lower quality service.

Section 7(1) makes provision for the director to issue policy directives to service agencies and deal with performance standards and performance measures. There is no corresponding provision with respect to the services purchased through direct funding. It is important to enact measures that will ensure that people can purchase

quality supports within the community.

There should be measures to ensure that workers available for hire through direct funding can be paid a reasonable wage, comparable to that of workers in service agencies, and to take into account the fact that workers hired through direct funding do not typically have access to health, pension and other benefits afforded to workers in agencies.

The legislation should also ensure that people are able to change funding streams or engage a mix of agency and direct funding based on their needs. Funding should be portable, so that as a person's needs and plans change, they can continue to have support without interruption.

Our fifth priority is to seek the inclusion of person-directed planning as a funded element that is made available after determination of eligibility but before the application and assessment process. Person-directed planning processes are recognized as critical elements in addressing a person's support needs. The Provincial Network is concerned that the current legislation provides no mention of resources for planning as a corefunded element. Dedicated resources for person-directed planning could be a transformative element of the legislation that would positively change the way that many people approach applying for supports and services. Good resources for planning will assist a person to complete the application process more efficiently and effectively and be better informed about their personal

goals and about existing or potential resources available to them in the community. Planning should be added as a core service funded by government and should be available to all who are deemed eligible.

Planning services should not be provided by the same body that administers applications and conducts assessments. Resources for planning should be accessible either through agency-based or independent planners who are qualified. Standards should be set through the regulations or in policy. Qualified planners should be knowledgeable about generic services and resources and should be skilled in assisting persons to make connections and build relationships.

On a final note, I would like to emphasize a broad consensus that has been reached among developmental service partners regarding changes that should be made to Bill 77. This remarkable level of agreement has led us to conclude that our concerns and recommendations are legitimate. In closing, I'd like to stress that the bill certainly should be an enabling bill that supports adults to become active members in their communities.

The Vice-Chair (Mr. Vic Dhillon): Thank you, Mr. McMullen. You were right on the time; you used up your 15 minutes. Thanks for making this presentation.

Thank you committee, staff.

This committee will adjourn now—

Ms. Elliott?

Mrs. Christine Elliott: I do have a request to make of the research officer, Ms. Campbell, if I might, with respect to several items that have come up during the course of discussion today.

One is with respect to a comment that was made by Community Living Timmins on the UN Declaration on the Rights of Disabled Persons, in the context of the discussion on supported decision-making. I was wondering if we could get a copy of the UN declaration and any other information that we can find out about supported decision-making as it relates to that; that has been a consistent theme that has come up from many presenters.

The other issue was brought up by the member from Community Living for West Nipissing in the context of speaking about application centres. She was talking about networks of specialized care. I was wondering if we could get some information specifically about who participates in that and actually how many there are across Ontario, or if it's just a local, northern situation. She seemed to indicate that there were several networks available that might be able to perform the same function as an application centre.

The Vice-Chair (Mr. Vic Dhillon): Okay. Thank

Thank you very much, everybody. We're going to adjourn for today and convene tomorrow morning in Ottawa.

Mr. Dave Levac: That's a long walk.

The Vice-Chair (Mr. Vic Dhillon): For you.

I've been told that the taxis will be outside at 2 p.m., so we'll see you at the front.

The committee adjourned at 1328.







STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke-Lakeshore L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London-Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)

Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Joe Dickson (Ajax-Pickering L)

Mrs. Christine Elliott (Whitby-Oshawa PC)

Ms. Sylvia Jones (Dufferin-Caledon PC)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches-East York ND)

Mr. David Ramsay (Timiskaming-Cochrane L)

Clerk / Greffier Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer, Research and Information Services

CONTENTS

Thursday 7 August 2008

Services for Persons with Developmental Disabilities Act, 2008, Bill 77, Mrs. Meilleur /	
Loi de 2008 sur les services aux personnes ayant une déficience intellectuelle,	
projet de loi 77, M ^{me} Meilleur	SP-197
Community Living Timmins	SP-197
Ms. Johanne Rondeau; Ms. Brenda Beaudoin	
Ms. Christy Barber	SP-199
Cochrane Temiskaming Resource Centre	SP-202
Mr. Wade Durling	
Ms. Teresa Colangelo	SP-205
Ontario Public Service Employees Union, Local 664	SP-207
Ms. Helen Riehl	
Canadian Union of Public Employees, Local 1880	SP-209
Ms. Cindy Hertz	
Fair Share Task Force.	SP-211
Mr. John Huether; Mr. Jim Triantafilou	
Community Living West Nipissing	SP-214
Ms. Denise Plante-Dupuis	
Woodview Children's Mental Health and Autism Services	SP-216
Mr. Gordon Dunning; Ms. Cindy I'Anson	
Autism Ontario	SP-218
Mr. Doug Reynolds	
Mrs. Sheila Zhang-Smith	SP-221
Provincial Network on Developmental Services	
Mr. Geoff McMullen	

SP-11



SP-11

Legislative Assembly of Ontario

First Session, 39th Parliament



Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Friday 8 August 2008

Standing Committee on Social Policy

Services for Persons with Developmental Disabilities Act, 2008

Journal des débats (Hansard)

Vendredi 8 août 2008

Comité permanent de la politique sociale

Loi de 2008 sur les services aux personnes ayant une déficience intellectuelle

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Friday 8 August 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Vendredi 8 août 2008

The committee met at 0833 in the Ottawa Marriott Hotel.

SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES ACT, 2008

LOI DE 2008 SUR LES SERVICES AUX PERSONNES AYANT UNE DÉFICIENCE INTELLECTUELLE

Consideration of Bill 77, An Act to provide services to persons with developmental disabilities, to repeal the Developmental Services Act and to amend certain other statutes / Projet de loi 77, Loi visant à prévoir des services pour les personnes ayant une déficience intellectuelle, à abroger la Loi sur les services aux personnes ayant une déficience intellectuelle et à modifier d'autres lois.

The Acting Chair (Mr. Dave Levac): Welcome to Victoria North, Ottawa Marriott, for the Standing Committee on Social Policy regarding Bill 77.

AUTISM ONTARIO, OTTAWA CHAPTER

The Acting Chair (Mr. Dave Levac): I'd like to start our hearing by asking Autism Ontario, the Ottawa chapter, Heather Fawcett, to join us.

Ms. Fawcett, thank you very much for being here. For Hansard's sake, we'd ask you to identify yourself and the group you're representing. You have 15 minutes, and within your 15 minutes if you leave time for questions, we'll do so.

Ms. Heather Fawcett: Heather Fawcett, Autism Ontario, Ottawa chapter. Thank you for the opportunity to speak to Bill 77. To introduce myself, I'm a parent of a 17-year-old with Asperger syndrome. For the last seven years I've facilitated Ottawa's Asperger Parents Support Group—a group of 468 families and individuals sponsored by Autism Ontario. I've also helped develop community programs, namely social skills groups for youths and adults, in response to the service gap in our community for higher-functioning individuals with autism spectrum disorders.

Referring parents of children and adults with Asperger syndrome to services has required a lot of resourcefulness and creativity, partly because the disorder has only been recognized since 1994 so development of services lags far behind assessments. Many adults with higher-functioning autism and Asperger's require social skills training, job support, assistance with daily living and other community supports to live independently. They also require treatment to deal with social and emotional deficits, sensory dysfunction and commonly cooccurring mental issues such as depression and anxiety.

Yet few specialized services exist in Ottawa for those with autism spectrum disorders, and of those that do, individuals with Asperger syndrome and higher-functioning autism are frequently excluded on the basis of cognitive capability. As an example, specialized mental health services such as the Royal Ottawa Hospital's dual diagnosis clinic are off limits to those with IQs above 70. Where service exceptions are made, higher-functioning individuals are often the first to lose service with funding cuts. The result is that many parents cobble together resources from the community at their own expense.

So we are very pleased to see the reference to IQ deleted in this act; however, it does not remove the very real possibility that the terminology "cognitive functioning" will continue to be used to exclude those with higher-functioning autism and Asperger's, especially when funding is tight.

I have experienced this personally. When my family moved from Wellington county to Ottawa in 1998 we tried to transfer our special services at home funds and were told that those with Asperger syndrome didn't receive funding in Ottawa because of their cognitive level. The fact that my eight-year-old daughter could not interpret emotions, could not recognize faces out of context and could not engage in a conversation or play interactively with another child was deemed less important than the fact that she could bring home a B on her report card. The story has a happy ending, as the funds did continue and the local policy was changed shortly after. As such, this bill must recognize that social reasoning deficits are every bit as detrimental to independent living as other learning deficits. One also hopes that the bill will address the current inequities across the province and ensure portability of services from one area to another.

Individuals with higher-functioning autism spectrum disorders follow a trajectory that is different than those with developmental disabilities and autism. Most are not diagnosed until school age and others do not come to the correct diagnosis of autism spectrum until they are teenagers or even adults. Any services they receive are late in the game. It is important that the legislation

recognize that a diagnosis may be late in coming even though the disorder was inherent from birth.

The bill concentrates a lot of power in the hands of the application centre. There is the potential for a conflict of interest when the application centre is both in charge of approving and managing funding and is one of the agencies delivering services. It may be best if the application centre is a separate entity. At the very least, a third party should monitor parent and individual satisfaction and handle appeals and other situations where there may be a conflict of interest. There is a need for transparency around funding decisions. Parents, individuals and community members should have access to the policies and procedures used for determining eligibility, prioritizing and allocating resources and funding dollars.

It's important that the personnel at application centres are well trained in autism spectrum disorders so they can make the appropriate service decisions. Services must be planned to meet the person's needs as opposed to slotting individuals into available and inappropriate services. The experience of adults in our community with the limited services available has not been positive. For those who get service, they are often shunted from one inappropriate service to another.

The following experience of Jonathan Davies, one of our community members with Asperger syndrome, who I had hoped would join us today, is not atypical. As a child, Jonathan was diagnosed with childhood schizophrenia and autism before Asperger syndrome became a diagnosis. Despite graduating with a high school diploma in 1980 and some years later with a business information systems college diploma, in his adult life he has been referred to and enrolled in activity programs for individuals with intellectual disabilities, those for severe psychiatric illnesses, worked in a sheltered workshop sanding plastic, volunteered for non-profits and stocked shelves.

In his words, "They didn't give me any of the coaching that I needed in order to learn what behaviour is appropriate in what situation. They just got me to use the social skills that I had already, even though the social skills I had already weren't very much, and they did not do what was needed to make them better. In 1993, I had fairly severe emotional problems, largely because of my lack of success socially."

In 2001, he finally received speech and language and occupational therapy to improve his behaviour and communication in the workplace. Today this individual is working part-time at a non-profit call centre where he finally feels he is working in a job that suits his abilities. It took more than 20 years to receive the social skills help he required to get a job suited to his capabilities, at both a great personal cost and a great cost to the system. Unfortunately, the situation today has not changed much.

This is all to point out that services need to be targeted to the individual and not the other way around. This bill makes a distinction between professional services and specialized services. However, all services, whether they are those delivered by a professional such as a speech and language pathologist, psychiatrist or psychologist, or other services such as work training, need to be specialized to the needs of those with autism spectrum disorders. It is hoped that the application centre will have the expertise to develop the service profile accordingly, and that where there are service gaps they will look beyond the obvious and be creative in finding service alternatives that are the right match. Direct funding should provide parents the opportunity to tap into more specialized community resources that have recently developed in response to the service gap. However, the bill says little about the monitoring of individuals or organizations providing the service through direct funding.

0840

Finally, adequate resources need to be forthcoming from the government to make the bill work. Currently, most adults with autism spectrum disorders go without much-needed services. Inevitably, what we don't invest in now will come back and haunt us in the future.

The Acting Chair (Mr. Dave Levac): Thank you very much, Ms. Fawcett. You've left some time and we will split that time up amongst all the parties. We'll start with the Progressive Conservative Party with a couple of minutes.

Ms. Sylvia Jones: Thank you, Ms. Fawcett. I think you were very kind in your assessment of the application centres when you said there's a potential for conflict of interest. Some of the other presenters have described it as judge, jury and perhaps even Supreme Court all rolled in together, so I appreciate those comments. Thank you for your presentation.

The Acting Chair (Mr. Dave Levac): Thank you very much, Mr. Prue.

Mr. Michael Prue: I found the whole story about Jonathan Davies to be quite sad. Is this typical? Is this happening to other people?

Ms. Heather Fawcett: I guess the only thing that's not typical about it, to be honest, is a lot of parents generally find their adult children aren't eligible for much in any way of services so they don't really even bother to make the effort to try to go through our service coordination here to get any kind of service.

The other thing that might not be quite as typical is Jonathan Davies is a very motivated individual. He has persisted for a long time. He has not given up. That may be part of his condition, whereas other individuals aren't quite as persistent and may not have tried so hard to find services that aren't out there. But in general, really, that is pretty common in the sense that there really aren't those specialized services out there that can take into account the condition and what services are required.

Mr. Michael Prue: Now, in the past, the funding of all the programs has been a great difficulty. Even with this new act, do you see a continued need for more funding?

Ms. Heather Fawcett: Absolutely.

Mr. Michael Prue: Many of the people who have been before us talked about how the act looks all well and good: "Fine, we can accept the new act; show us some money." Of course, there's no money here. That will come later, perhaps, in the budget. In order for this act to work, have you given any thought as to how much extra money will be needed in the system?

Ms. Heather Fawcett: That's not a question I could really answer in terms of extra money that would be required, but certainly I would hate to see all of the administration or bureaucracy, say, around creating an application centre take away from the money in the hands of the parents. That would be one of my concerns, that it needs to be budgeted out in terms of being efficient and not becoming another big money drop in the pot, little of it going to parents. I guess that's the only comment I could make.

The Acting Chair (Mr. Dave Levac): With that, we'll move over to Mr. Naqvi.

Mr. Yasir Naqvi: Good morning. Thank you very much for sharing your experiences with us this morning. You talked about the definition of "developmental disability" and that you support that definition, but you raise some concerns about the interpretation of cognitive functioning. If you had to propose some changes to the definition, do you have any suggestions for us?

Ms. Heather Fawcett: Again, I think I'd have to look at it in more detail, but I just feel that it's very often open to interpretation. These individuals have very uneven skills. That's part of the disorder. For instance, my own daughter is in the 90-something percentile for some of her verbal skills. She's in the second percentile for visual memory. So if you're only going to look at one aspect of it, the verbal side of it, she's heading on to university. That may look like she's going to be able to function. However, she can't currently take the bus anywhere because her visual memory skills are so poor. Socially her skills are very poor. She got and lost her first summer job two weeks ago in a week. So there just needs to be a way—maybe it's in the adaptive functioning—to be clear that an individual has very uneven skills and you need to look at the whole picture, I guess.

Mr. Yasir Naqvi: So the application of the definition is key, in your opinion?

Ms. Heather Fawcett: Yes, absolutely. Mr. Yasir Nagvi: Great. Thank you.

The Acting Chair (Mr. Dave Levac): Thank you very much, Ms. Fawcett, for your presentation, and our committee thanks you.

COMMUNITY LIVING ASSOCIATION (LANARK COUNTY)

The Acting Chair (Mr. Dave Levac): Next, we'd like to call upon the Community Living Association (Lanark County), Mr. Rick Tutt and Ms. Molly Bruce.

As you approach, as indicated, you have 15 minutes. Please identify yourselves and the organization you represent, if you do. Within the 15 minutes, you may choose to be a little briefer and provide some time for question and answer afterwards, but if not, you can use

your entire 15 minutes for your presentation. Thank you very much. You may begin.

Mr. Rick Tutt: Thank you. My name is Rick Tutt. I'm executive director of Community Living Association (Lanark County). We're an organization just west of Ottawa committed to advocate for and support people who live with an intellectual disability. With me today is Molly Bruce, a member of our board of directors and a parent of a gentleman who lives with an intellectual disability.

We would like to take this opportunity to highlight several of the issues covered in our written submission, which we have copies of for the committee and which includes more details and a number of specific recommendations. Mrs. Bruce and I will share the presentation.

We believe that the legislation would greatly benefit from the inclusion of a preamble aimed at describing the social change that we hope it is intended to accomplish. Such a preamble should closely relate to the vision statement of the ministry, which is "to promote greater social inclusion." By creating this legislation to be an enabler of access to all areas of community life through the provision of support by the ministry, we can start to break down barriers that exist between government ministries, and we will better position our province to support the ratification by Canada of the United Nations Convention on the Rights of Persons with Disabilities. In our written submission, we've outlined a number of specific suggestions that might be included in such a preamble.

By holding contracts with local associations and other community-based organizations, government enjoys certain benefits that come from the fact that local associations are made up of volunteers and persons who share a common concern. Much more than running a business, local associations share the aim of building inclusive communities. Powers of government over community agencies may be addressed by two main concerns for harm: One has to do with funds; the second has to do with the health and safety of the people who are supported by those funds. Actions that are taken based on those powers should be addressed only to the cessation and correction of that harm. Ministry power must extend only to areas described in ministry contracts. Powers should not allow the ministry to interfere in the governance of community corporations, and as such, should not be extended to the management of "the affairs of the service agency," as described in the draft legislation. An association such as ours is involved in a number of activities, many of which have nothing to do with the contracts that we enter into with the government.

People and their families must be able to purchase quality support within their community. The bill must ensure provisions through which workers available for hire through direct funding can be paid a reasonable wage, comparable to that of workers in support agencies. Without such equity of payment, there's a danger that direct funding—an unquestionably critical element of support, and I stress that—will decay into a second-class

or two-tiered system. This is certainly not what families have wanted, or what they have lobbied for for years, or what government has promised and has indeed started to deliver.

In Ontario, there is currently a variety of models of application, or single-point-of-access processes. Some are extremely expensive and overly bureaucratic, while others are more of a voluntary and collaborative nature. We are concerned that the bill focuses on application centres—and I underline the word "centres." We are concerned that less expensive but just as effective collaborative models must not be automatically dismissed. The concept of application processes should replace the concept of application centres. We are also concerned that the ministry not place a number of functions into one hat that would lead to the potential of a conflict of interest, such as assessment, planning, referral, appeals, etc.

0850

In rural areas, it is imperative that the application process be community-based and not centred in a larger and distant community, kilometres away from the local community, the families, the people and their supports. I know you're going to hear more about this in much greater detail in a presentation from the disability services providers in Lanark County.

Ms. Molly Bruce: It's Molly Bruce, Community Living Lanark. The legislation must include provisions to recognize the legal capacity of people who have an intellectual disability and provide for supportive decision-making in order to ensure that people can enjoy their legal capacity. The concept of supported decision-making was pioneered here in Ontario, and has recently been adopted into international law under the UN Convention on the Rights of Persons with Disabilities.

Acknowledging and supporting the legal capacity of the individual can be, perhaps, the most transformative step that can be taken within this legislation. Providing such recognition will allow the person a mechanism through which they can enter into an agreement for direct funding without having to surrender authority to a substitute decision-maker or guardian.

Persons seeking support must be clear about what they need, or they will most likely be offered supports from a list that has been identified by someone else. People must receive supports appropriate to those needs. Persondirected planning must look at supports that may be accessed under the provisions of this legislation and also at supports available in the context of persons, family, community and natural networks. Person-directed planning must be made available after the determination of eligibility but before a person applies for supports or funding and before his or her needs are assessed. It must be available to the person on an ongoing basis and not be carried out by the application centre, but by individuals or agencies that are recognized as qualified planning facilitators, according to standards that must be set through a regulation or policy directive.

Given the scope of decisions that could be made under this bill regarding determinations of eligibility, terminations of agreements and appointments of managers, an independent appeals mechanism is absolutely critical. A person's direct funding agreement should never be cancelled for reasons of misuse where direct funding was being managed by someone other than the individual, including a family member or guardian, and the individual is found not to have played a role in the misuse. The act should clarify that a process be in place through which a person for whom direct funding has been terminated can have the funding reinstated after meeting specified requirements.

Before 1995, the government provided grants to community advocacy groups to assist them in organizing for purposes of education and bringing a voice to issues that concerned them. The developmental services sector would be served well by ensuring that self-advocacy and advocacy groups are able to organize in a fashion that allows them to play an effective role in the public discourses related to the inclusion in the community of people who have an intellectual disability. Financial support should be available to such groups.

We would like to go on record as offering our unqualified support of the submissions you have received this past Tuesday from People First of Ontario, Community Living Ontario and the Canadian Association for Community Living.

In conclusion, we wish to stress that this legislation will have a profound impact on people with intellectual disabilities and their families for many, many years to come. We hope and trust its impact will be one of a positive and supportive nature. Thank you.

The Acting Chair (Mr. Dave Levac): Thank you very much, Mr. Tutt and Ms. Bruce. I appreciate your input. You've left us with some time to share with the parties, to the tune of about a minute or so. I'll be flexible on that. A minute or so each, starting with the NDP.

Just before we do that, you do have a hard copy reference to a presentation. Did we get a copy of that for the clerk to distribute?

Interjection.

The Acting Chair (Mr. Dave Levac): Thank you very much.

Mr. Prue?

Mr. Michael Prue: I'd just like to focus on the comment that was made about the wages of people in the sector and how the new system must bring up the wages to the service sector level if it is to succeed. As I understand it, people working in the service sector earn between \$15 and \$18 an hour if they're unionized; people who work privately earn as little as \$10.30 an hour, up to about \$12. So we're talking about a \$5 wage gap. How do you propose that the government solve this \$5 wage gap?

Mr. Rick Tutt: First of all, I think the wages paid in the service sector are probably higher than you've just mentioned, and it varies from community to community; the ministry has increased base funding in the past year. We don't propose; it's not our job to propose. It's the ministry's job to make sure that families and people with disabilities are not treated as second-class citizens because they have chosen to go a different type of route for their services. A lot of families in this province want individualized funding, and that's funding that they can control, with people they can hire for the type of supports for their sons and daughters that they choose and their sons and daughters choose.

Mr. Michael Prue: Some of the comments in the past have been that the brokerage system will try to do it at the cheapest possible level and will look for those people who earn \$10 to \$12 an hour, as opposed to people who earn higher, and that this in turn will cause the system not to work. Do you have any problem with the brokerage system that's being proposed?

Mr. Rick Tutt: I don't have a problem with any system. What we have a problem with is the fact that families are given money that forces them to pay substandard wages to people who are doing an equally important job for their sons and daughters as service providers are.

The Acting Chair (Mr. Dave Levac): Mr. Ramal.

Mr. Khalil Ramal: You talked about the government interfering with the organization of agencies. The government doesn't like to micromanage anything in the province of Ontario, so we allocate the money to organizations and agencies, and we hope they will manage the money in a professional manner and in the right way. But sometimes organizations abuse and mismanage the allocations or the funds being submitted to them. So do you think the government, as a guardian of the tax-payers—we're in charge of that, and then we have to answer to the taxpayers—has a right to interfere and come in and manage?

Mr. Rick Tutt: Absolutely, and I would support that. But in my statement, I said I would only support the government stepping in within the bounds of the contract that we sign between our organization and the government, not to take over our agency or our organization. We do many things that have nothing to do with the contract that we sign with the government to provide supports and services, and there have been examples in the past where the ministry has stepped in and has taken over an organization for potentially appropriate reasons but has overly enforced authority. I said very clearly in my oral submission and in our written submission that as far as the contract is concerned, we feel we should be accountable to the ministry. And believe me, as an executive director, we are accountable to the ministry in more ways than one.

The Acting Chair (Mr. Dave Levac): Thank you very much.

Mr. Khalil Ramal: No more time?

The Acting Chair (Mr. Dave Levac): That's it. Mrs. Elliott.

Mrs. Christine Elliott: Thank you very much for your presentation. We've heard very similar comments, as you probably know, from many, many other groups during the course of our committee hearings, central to which, to my mind, is the supported decision-making and

the person-directed planning. I think in order to achieve the transformation that this legislation hopes to achieve, that's a really integral piece—and we have been listening to what people are saying—so that you end up with a situation that builds a whole life for a person, using a blend of traditional supports and non-traditional supports that achieves the social inclusion that one hopes this bill will achieve. So I thank you for those comments, and we are taking them very seriously.

Mr. Rick Tutt: Thank you. That's very good to hear. 0900

The Acting Chair (Mr. Dave Levac): You're welcome to respond if you wish, but that's fine.

Mr. Rick Tutt: My only response is, I think Molly mentioned the individual or person-centred planning is really critical, not only how it's done but also in what context it's done. It must be done independently on behalf of and with the individual and his or her family. Around supported decision-making, I would just red flag—that's a danger signal—in a positive way a presentation that will be made later on today from the Brockville and District Association for Community Involvement. Audrey Cole will be addressing supported decision-making, and she is probably the most preeminent volunteer in terms of knowledge of that. As I mentioned in our presentation and others have, the supported decision-making that came out of Ontario and then out of Canada was instrumental in getting into the UN declaration, so we're all hopeful that the committee will look at that very carefully.

The Acting Chair (Mr. Dave Levac): Yes, we've asked for some research on that through Ms. Elliott, and the committee will be given that research. Thank you very much, Mr. Tutt and Ms. Bruce. I appreciate your time and that you've come to present for us.

GREG BONNAH

The Acting Chair (Mr. Dave Levac): Now I would like to ask for the County of Lanark Developmental Services Providers Committee, Mr. Dave Hagerman and Ms. Donna Davidson.

Did I miss somebody? Yes, I did. I'm awfully sorry. Excuse me; I've made a mistake. Mr. Greg Bonnah.

Interjection.

The Acting Chair (Mr. Dave Levac): No, there's an individual in front of your organization. My apologies; it's my happy feet talking again.

Greg, you have 15 minutes, and if there's any time left over from your presentation and the 15 minutes, that's for question and answer. Identify yourself for Hansard.

Mr. Greg Bonnah: Okay, thank you. I'm Greg Bonnah, parent of a 17-year-old child with developmental disabilities.

Thank you for the opportunity to speak before this committee. To start, I like what I see in this bill. It is a great improvement over the existing act, though I feel it misses the mark in two key areas: (1) It fails to include children with developmental disabilities, and (2) it will

only work, in my opinion, if the bureaucracy wants it to work. It is my feeling that here in the eastern region of the Ministry of Community and Social Services the needs of the system outweigh the needs of the client.

Section 5 of the bill states, "This act applies with respect to persons with developmental disabilities who reside in Ontario and are at least 18 years of age." Does this mean that from the age of six to 18, as is currently the preferred model of the Ottawa-Carleton District School Board, our children will continue to be segregated, thus being denied the right to a basic academic education unless the parent is rich enough to, through the courts, force the school board to do what the Ministry of Education states is a basic right of every child?

I ask this because I am a parent of a child that the OCDSB deemed to be expendable. Their expert witness at my child's educational tribunal indicated that intellectually he was at the 0.01 to 0.02 percentile, and that educationally his needs were not unique. It took four years to rectify this situation, in which time the OCDSB did not provide my child any educational opportunities, and in which time the OCDSB both economically and by using the police and the children's aid society attempted to bully me into abandoning my child's academic needs.

In April 2003, the appeals court of Ontario ordered that the necessary resources for my child to reach his full potential be put into place. For the record, this past May, my child participated in the grade 3 EQAO testing.

By excluding persons under the age of 18 who have developmental disabilities from this act, you are ensuring that the status quo will continue. Could one of you experts please explain to a lowly parent how a child who has been segregated all of their scholastic life is expected to function in a fully inclusive environment once they turn 18?

Next I am going to quote from the explanatory note of Bill 77 that I found on the Legislative Assembly of Ontario website: "Under section 8 of the new act, the minister may designate application centres for geographic areas specified in their designation. The application centres shall act as the point of access to services for persons with developmental disabilities residing in the geographic area. Persons with developmental disabilities, or others acting on their behalf, may apply under part V of the new act to application centres for services or funding under the act. The application centre is responsible for determining whether a person with a developmental disability is eligible for services and funding under the act and allocating the funding and services available in the geographic area among the applicants.

"Under section 9 of the new act, the minister may fund services using two funding methods. As was the case under the old act, the minister continues to be able to enter into funding agreements with service agencies who will provide services to or for the benefit of persons with developmental disabilities. Under the new act, the minister may also provide funding to application centres for purposes of direct funding agreements that the application centres may enter into under section 11."

My dealings with the eastern region of the MCSS have, in my opinion, demonstrated that the needs of the system outweigh the needs of the client. An example of this: In January 2008, special services at home and I came to an agreement with the assistance of the Ontario Human Rights Commission. After three years of documenting the situation, I demonstrated that MCSS was discriminating against my child because we chose to utilize resources outside of the segregated environment. The agreement that my spouse and I signed in good faith was, at the insistence of special services at home, from January to July of this year. In June, as ordered by the agreement, we met with my child's special agreement officer and explained how we utilized the funding and what we hoped to accomplish with funding for next year. In July, SSAH informed us that we are expected to stretch out the few dollars we received for six months over the entire year. So for the third time in the past four years, I am in the appeal process.

Therefore, given the homeostasis that I feel is prevalent throughout the eastern region of MCSS, it is my opinion that by maintaining the current funding model, it will be the status quo of segregation for persons with developmental disabilities here in eastern Ontario.

To conclude, unless this bill is expanded to (1) include persons under the age of 18 who have developmental disabilities, (2) ensure that children with developmental disabilities have the proper supports and resources in an inclusive educational environment necessary for them to reach their full potential, and (3) ensure that all segregated schools for children with developmental disabilities are immediately closed, and unless the needs of the client outweigh the needs of the system, I fail to see how this bill has any chance of success here in eastern Ontario.

The Acting Chair (Mr. Dave Levac): Thank you very much. I apologize again for missing your name. We do have some extra time, and we'll be sharing that amongst all three parties. We'll be starting with the Liberals. Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. You mentioned many different issues, but the most important thing you talked about was that in order for Bill 77 to work, it has to include people under the age of 18. As you know, every ministry has a different jurisdiction. The Ministry of Community and Social Services deals with adults. The definition of "adult" is a person past the age of 18, so below that it will be the responsibility of the Ministry of Children and Youth Services.

The second thing you talked about was the application centres. I hope you're happy with the application centres, because the aim of the application centres is to unify the assessment process across the province of Ontario in order to be able to assess our service.

Mr. Greg Bonnah: It is my understanding that currently there is a tri-ministry agreement in place for education of special-needs children. I do believe that the majority of funding for the four segregated schools that

are run here in eastern Ontario comes through MCSS and that they are run under a group-home status. They're not run under education, even though they are education centres. That's my understanding.

The Acting Chair (Mr. Dave Levac): We can get that clarified.

Mr. Greg Bonnah: Second of all, I'm feeling, with the way things are right now, that the application centres are just going to become another big bureaucracy, where all the money is going to go to feed the bureaucrats and very little of it is going to come out to the client.

The Acting Chair (Mr. Dave Levac): Mrs. Elliott. 0910

Mrs. Christine Elliott: Thank you, Mr. Bonnah. The frustration I can hear in your voice is unfortunately all too common with a lot of parents of children and young adults with developmental disabilities. I can understand that to hear it's another ministry that's responsible for it doesn't really answer your concerns.

There's no question that more work needs to be done in order to work on services for young people, and I think there's probably a need for more communication, frankly, among the Ministries of Education, Children and Youth Services and Community and Social Services. That is something that we can certainly take away and have a discussion about, how to better serve the children and the young people rather than to serve the needs of the bureaucracies. But that is a recurrent theme and I think that, although this bill is specifically dealing with people over the age of 18, there's a lot of work to be done in the transition as they come up through the school system and they get prepared to go into the next stage of their lives. So this is one piece that we're dealing with, but we recognize there's much more that needs to be done to coordinate services to make sure that it's person-centred.

Mr. Greg Bonnah: I would agree with you, but again, currently, for the first 18 years of their lives we're segregating these kids and then you expect them to be in a fully inclusive environment. How do you expect them to survive?

Mrs. Christine Elliott: As I say, I think there's a lot more work that needs to be done, and we're listening to what you're saying.

Mr. Greg Bonnah: If you were doing it the opposite way, then I would agree with you totally. But currently—and I do believe in inclusion, believe me; I believe that we should all be included, but I cannot see how most of these kids can come out of places like Clifford Bowey and stuff like that, where they have been segregated and told, "No, stop, wait. Don't take any initiative at all whatsoever. That's frowned upon and you will be disciplined if you do it," and then all of a sudden they're totally on their own once they turn 18.

Mrs. Christine Elliott: I think there are many more supports that we can put into the school system to serve the needs of children with special needs.

The Acting Chair (Mr. Dave Levac): Mr. Prue.

Mr. Michael Prue: I just want to go back to the school system. I'm not as familiar with the school system

in the Ottawa area as I should be, coming from Toronto. We have a school in Toronto in my riding called McCordic. It's run by the Toronto school board, but it is for children with severe developmental disabilities. Is that the kind of school you want to shut down?

Mr. Greg Bonnah: There are six of them left in Ontario. Toronto has one, Thunder Bay has one and eastern Ontario has four. There are three of them here in Ottawa. Considering we only have less than 10% of the population, I do believe we have a high percentage of the schools for those with developmental disabilities.

Mr. Michael Prue: But do you want all six shut down?

Mr. Greg Bonnah: I do believe that there is a need for some but, like I say, my child was at the 0.01 percentile, and he just did the grade 3 EQAO testing, but I had to go to the appeals court of Ontario to get the resources in place to do it.

Mr. Michael Prue: I take it from that that the bureaucracy was singularly unhelpful in your case.

Mr. Greg Bonnah: Well, they spent a million tax-payers' dollars fighting me.

The Acting Chair (Mr. Dave Levac): Thank you very much, Mr. Bonnah. I appreciate your presentation. For the record, the consistency across the province is what the aim of the bill is for the adult population and not the education system; so that you're aware.

Mr. Greg Bonnah: Yes, okay.

COUNTY OF LANARK DEVELOPMENTAL SERVICES PROVIDERS COMMITTEE

The Acting Chair (Mr. Dave Levac): The next group—we'll try again—is the County of Lanark Developmental Services Providers Committee, Dave Hagerman and Donna Davidson.

You have 15 minutes to make your presentation. Please identify yourselves for Hansard. At the end of the 15 minutes, if there's time left over, we'll share that amongst the parties for question and answer. You may use the entire time for your presentation.

Mr. Dave Hagerman: Thank you. Just a correction: My name is Dave Hagerman, I'm the chair of the services providers committee of Lanark county, and joining me is not Donna Davidson, but Cathie Hogan, who is a parent of a child who has been on our P and P waiting list for many years. I will start the presentation in terms of the agencies that sit on the service providers committee and Cathie can give you the real story of what it's like to live these issues on the ground.

The Acting Chair (Mr. Dave Levac): Thank you very much, and welcome, Cathie.

Mr. Dave Hagerman: First of all, we would like to commend all the parties for their support of the process of deinstitutionalization of individuals with intellectual disabilities. All the parties in the Legislature, in some way or another, have played a positive role in the 20 or so years that this process has been going forward. As you know, it's been a long time for the institutions to be

closed and the individuals within them to be integrated into the community. All political parties sitting around this table contributed to that process.

We also agree that at the end of the day and at the end of the process, there should be a governing statute that reflects the values of community integration; there's no debate on that. We do have a number of concerns about many of the specifics included in Bill 77, however. We go into more detail in our written presentation about these concerns, which I have provided to the clerk, but I'll try to be brief.

The primary point we would like to make is this: The single most challenging issue facing the sector is the lack of funding, not that the existing collaborative access process is unfair and inequitable. I will focus on the idea included in the bill of establishing an entirely new administration labelled application centres. If there is unfairness in the existing system, it comes from the fact that there are thousands of individuals with intellectual disabilities in this province who have gone through an extensive assessment process, have been determined to need support services to function in our communities, and then are told they must wait on a waiting list for an indefinite period of time. Basically, some of them have been on waiting lists for years.

Any system under these constraints and with these expectations will be unfair and inequitable, particularly for those who must wait for service or don't have access to it. The existing system struggles under these funding constraints, but at least it's community based, uses collaboration and co-operation as its operating value, and is subject to provincial oversight. Again, I must repeat: No system placed under these funding constraints would be free of the characterization of being unfair and inequitable. Even with the new system proposed in the bill, if it's not properly funded, it will only be a matter of time before people will say it's unfair and inequitable.

The second point we would like to make is this: If we use the cost experiences of developing access centres in the Ministry of Health, we simply cannot afford this level of extravagance on administration. Given the waiting lists for service that currently exist in developmental services, all available resources should focus on direct service issues, not new bureaucracies. To believe that these new application centres will not require significant resources is just not believable; to suggest that the development of these application centres can be achieved through existing resources is just not believable. It will cost significant amounts of money, and this type of expenditure just cannot be justified given the tremendous need for service on the current waiting lists.

The funding issues then lead us to our next point and probably the most important one, and this is where Cathie will take over: There must be guarantees of minimum levels of funding identified in the bill. Bill 77 as it's proposed is permissive. What the sector really needs is a commitment to mandatory funding of identified essential support services, as currently exists in such services as special education in the Education Act,

in which the ministry must ensure that these services are provided, and/or the mandatory funding of ODSP. What we're saying is that the funding elements in the bill should not be permissive, but should be mandatory.

I'll let Cathie take over from here.

Ms. Cathie Hogan: Good morning. My name is Cathie Hogan. I'm here as a parent of two developmentally disabled young men, aged 18 and 21. My 18-year-old son requires residential services. He is severely autistic, he's non-verbal, he has a lot of behaviours, and he's also been diagnosed obsessive-compulsive.

What's lacking in this bill, as Dave has alluded to, is that funding for services for disabled individuals is not mandatory; it's permissive. If individuals meet the criteria for services, mandatory funding should be in place for these individuals.

My son turned 18 earlier this year. He's on a waiting list for residential services and has been since he was eight years old. When he's 21 and finished school, he'll go on another waiting list for a day program.

0920

While disabled individuals coming out of institutions and out of the care of the CAS slide right into group home spots and day program spots, my son languishes on a waiting list. Just the fact that these waiting lists exist is criminal. How long will he stay on these waiting lists? Nobody can tell me. Until he's 20? Twenty-five? Thirty? Forty? Who knows? He, and many others like him, may never get the residential services that he's entitled to.

Had I given up my son to the care of the CAS or institutionalized him, he'd be residing in a group home right now. But why do parents have to give up parental rights to get services for their children? I've saved my government hundreds of thousands of dollars by choosing to raise my children in their home, in their community.

The challenges that parents like me face every day are so exhausting. We can't meet those challenges forever. They take a toll on the best-equipped people, and as I said, we can't be expected to meet those challenges forever, indefinitely. The need exists for our government to provide residential and day program services in a timely manner. That means yesterday. My government has relied upon me to raise my children, but when I need to rely on my government for services, I get no assurance and no hope. I get waiting lists.

Until age 18, parents of disabled children receive funding through assistance for children with severe disabilities and special services at home, both of which provide funding for parental relief and respite and things of that nature. When a child turns 18, the assistance for children with severe disabilities is terminated. We're left with special services at home, which is capped at a maximum of \$10,000 a year, and most make do with a lot less than that. We all apply for the maximum, but we don't get it. So when you're paying a caregiver in excess of \$10 an hour, you're paying hundreds of dollars for a 24-hour respite. Even the maximum of \$10,000 doesn't go very far. You can all do the math. The thing is that

these kids, when they turn 18, still have the same needs that they did at 17—or at seven, for that matter. They still have those needs, but the funding to meet those needs is reduced.

This bill also needs to address the fact that parents and individuals with developmental disabilities need advocacy. Presently, there's no recourse for parents or disabled individuals when they're denied services. Many parents can't advocate for their children because, in many cases, they have special needs themselves. They're elderly, they're in ill health, many with stress-related illnesses. They can't afford to take time off from their jobs to attend a function such as this, or they're just too exhausted. Our service providers, who are already carrying loads that are way too heavy, have no time to help parents advocate. It's absolutely essential that parents have access to third party advocacy.

When I heard about this bill, I was excited; I was hopeful. But the bill, as I presently read it, doesn't excite me. It doesn't give me any hope that my son and others like him are going to get the services they need any time soon. In short, this bill isn't going to resolve any of the issues that I deal with day to day. I'm sure that you've heard this as you've been travelling throughout the province, and you will hear it again and again. So please, please, don't leave us without any hope. Thank you.

The Acting Chair (Mr. Dave Levac): Thank you very much, Mr. Hagerman and Ms. Hogan. I appreciate your coming before us today. We do have some time. We'll start with the official opposition. Ms. Jones.

Ms. Sylvia Jones: Thank you for appearing today—particularly you, Ms. Hogan. I know that this must be challenging to have to bring your personal situations, but it does bring back for us the value of what we're trying to do and the importance of getting it right.

I am particularly heartened to hear you talk about the concern about the bureaucracy of the application centres as they have been set out. It would be our goal to ensure that that bureaucracy does not, in fact, make the situation even worse than it is right now. Thank you for bringing your personal situation to it.

The Acting Chair (Mr. Dave Levac): Thank you very much. Mr. Prue.

Mr. Michael Prue: To Ms. Hogan: I don't think anyone has said it quite so eloquently as you, the frustration of being the parent of a child with disabilities and the lack of access that has been in the system to date.

I want to ask the question about the application centres that are being set up. I've noticed here, on page 5 of the handout that you gave out—although you didn't refer to it, you're talking about, I guess, what can only be described as the boondoggle of community care access centres, with an annual spending budget of \$1.576 billion to administer that system. I think that your logic is quite sound here, as you're talking about what it's likely to cost to set up this new system that the government has in mind, at \$137 million. Is it your position—and I think it is your position—that the \$137 million ought not to be spent on such a bureaucracy but instead plowed right into

the system, even as it currently exists; that would be far better use of government money?

Mr. Dave Hagerman: That's the position we argued in the paper. That's correct. The existing system, although not perfect, does have the potential to be able to provide greater access to service. There are limitations, and we've suggested a number of ways that the existing system could be improved. Cathie mentioned a couple of things that are really important, we think, and that is the right for folks with intellectual disabilities to have third party advocacy and the right for parents to have appeal processes that are clear, transparent and accessibleservice plans like they have in the child care sector that are open, public and transparent so that people know what the plans are in terms of government priorities of funding. These are all ideas that can be implemented without developing huge bureaucracies that are going to cost—well, we don't know how much they're going to cost, but I think it's not credible to say that they could be done through existing resources.

The Acting Chair (Mr. Dave Levac): Thank you, Mr. Prue. Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. That's why, I guess, Bill 77 proposes a change in the act: in order to service yourself and many others across the province of Ontario and give direct funding, and give families the opportunity to choose the service that they think is good for their sons and daughters.

In terms of the application centres, you mentioned, to give an example, the community care access centres at \$1.56 billion, and I hope that you don't think that this money goes only for bureaucracy, including service.

Mr. Dave Hagerman: The numbers here did go—I just put the numbers for administration. This is all bureaucracy for the access centre—it's from the Public Accounts of Ontario.

Mr. Khalil Ramal: It's a different take on it, the way we're dealing with Bill 77. We're talking about the application centres. You mentioned that the current system—the present—does not solve the problem. So we're looking for a solution to unify the system across the province of Ontario, and no doubt about it: Communities, organizations and agencies will play a pivotal role in the whole system. So this was our aim and goal for creating the application centres, whether we call them application centres or process applications—whatever title and names. So what do you think? Is something not needed to make the whole process unified across the province?

0930

Mr. Dave Hagerman: As I said right at the beginning, the primary difficulty, we think, that the sector is facing is underfunding, and no matter how you arrange the deck chairs on the Titanic, if there is not enough funding, any system will be unfair and inequitable. So that's why we think it's extremely important, and we hope that more groups across the province make this point, that the funding in the bill should not be permissive; it should be mandatory, like funding for ODSP

is mandatory. Funding for special education is mandatory. Funding for many health services is mandatory. If you qualify and you're eligible, there is some sort of guarantee that you have a right to that service within a reasonable period of time. The way this is set up now, we can go through an extensive application process through the application centre, through the current system, and we can identify essential services for people to be able to be integrated in the community, but even with the application centres, they'll be put on a waiting list, and they may never get service.

The Acting Chair (Mr. Dave Levac): Thank you for your time. I appreciate it very much.

COMMUNITY LIVING ASSOCIATIONS OF DUNDAS, STORMONT AND GLENGARRY COUNTIES

The Acting Chair (Mr. Dave Levac): With that, it brings us to Community Living of Stormont, Dundas and Glengarry with Ann Hysert.

Ms. Hysert, you have 15 minutes. When you begin your presentation, our clerk will distribute your handout. You should identify yourself and the group that you represent, if you do, and if there's any time left over after your presentation within the 15 minutes, that time will be shared with the committee to ask questions. You may begin.

Ms Ann Hysert: Thank you very much. My name is Ann Hysert and I'm representing the Community Living association of Dundas county, the Community Living association of Stormont county and the Community Living association of Glengarry county. They've come together to make this joint presentation to the standing committee today. The reason they've come together is to share their vision of support for the future; to reaffirm the position of Community Living Ontario; to act as stewards for the people and families they support and the communities they serve; to make you aware of the unique geographic area within which they serve and the issues within that area—considering they cover 7,000 square kilometres, and not 12,000 as I have written in the presentation; my math skills are a little off-to work in collaboration with all the parties; to eliminate the unfulfilled promises of programs and funding and to build legislation that will ensure we support individuals with disabilities in Ontario; and to ensure an ongoing, responsive infrastructure that we can depend on.

Our vision: Our collective knowledge of our communities in rural eastern Ontario, our day-to-day involvement and our relationship with families of the people we support, and in turn the very people we are here to represent, and our affiliation with Community Living Ontario allow us to stand before you with knowledge and sincerity.

We've taken a unique approach to our response. We have structured our presentation in a framework designed with functional undertones. We know that you will gather great information from many of the presenters who have

come before you today—you have heard some—and we need to have you turn your attention to ensure that we learn from our past, guard against some of the problems that have beset the current legislation and recent initiatives, and learn from other sectors that have made changes and now find that they are forced to restructure again within a very short period of time. We have also looked to models in other countries and how they have enacted best practices. So, we're here to help.

In the past three years, the ministry has introduced the Passport program. This was a wonderful initiative and yet, as of today, people are being told that there will be no allocation. Agencies are unaware of what is actually happening and families are anxious to secure services for their sons and daughters. We have been advised that there are over 1,000 individuals currently on the waiting list. We think this speaks to why we need a structure that ensures the legislation is enacted in the framework we're about to outline.

Extensive work has been done by the agencies and Nancy Draper, and now we find that work is on hold. This has resulted in valuable resources not being utilized effectively and it creates uncertainty for agencies. Such circumstances lead to scepticism and build resentment and distrust between the parties, parents and agencies as well as the government.

In more recent times—I, too, am going to refer to the health care sector—the community care access centres were created, 43 of them in Ontario, and Mr. Hagerman has just described eloquently what happened there. Currently the structure within which they report has been reorganized and a new infrastructure is being implemented. We must learn from this situation, as the cost of restructuring is significant, but the disruption to service can't be measured in dollars and cents.

Finally, we must guard against being trapped by waiting lists: Passport is a glaring example of what can happen. No, we are not naive; we are very responsible service providers and taxpayers, but it's often the easy way out to make minor changes to the status quo and use funding constraints as the only answer. As stewards of the sector, we can only look to the systems in other sectors, provinces and countries to develop the best systems that support the individuals we all serve.

This framework is not just for people with intellectual disabilities. This legislation will impact everyone in Ontario, from the young men and women who went to school with the people we support, to the sisters and brothers who understood the gifts their family member brings to their family, to the employers and volunteers, to the staff who work tirelessly to achieve the goals, and to the government and infrastructure that guide the process. We cannot fail all of these people. We must do our very best, and it would be our pleasure to work with you to make this happen.

Our framework needs to have a vision of abilities, shared values, ethics, accountability, alignment, attunement and, of course, standards.

Vision of abilities: Many countries have legislation or commissions that structure their laws and services on an abilities model. Thus, the language that is used in the legislation and the regulations is described in a positive, supportive way, pointing to people's abilities versus their disabilities.

Shared values: The ministry, agencies, individuals and communities must become stewards of this vision and the resulting support, paid and unpaid. This would create communities of caring and support. Usually, when organizations and governments work together, one can eliminate some costs and bring greater accountability, resulting in high-quality caring and support. When true stewardship is in place, we can realize this goal. I would refer you to the commission Ed Broadbent chaired on stewardship. He has an excellent paper on that sitting, spelling out many attributes.

Ethics: A strong ethical basis allows all parties to understand the rules and rights. Transparency would be evident, and decisions and agreements could be better understood or challenged on an informed and formal basis. There are many ethicists who could guide and support us during this process.

Standards: What you can't measure, you can't manage. We all need standards which go hand in hand with ethics. Standards must be consistently established and measured across the province, not hit and miss.

Accountability: All-around accountability would strengthen the communities we serve. This is not just accountability for the service providers or the parents; it's a tripartite accountability: politicians and government, service providers, and the individuals we support. With true shared accountability, when you have all the parties involved supporting the same goals, there is the collective will to succeed and a framework to draw on.

Ethics, standards and accountability go hand in hand. When you pair this with alignment and attunement, and of course vision and shared values, this becomes a very powerful tool to propel the legislation to great heights and not fall short.

Alignment of the framework is essential if you wish to use the available resources and talents to deliver high-quality programs and services. Alignment means that there is connectedness, time is not wasted, roles and responsibilities are clear, resources are maximized, and the sector can become one of the high performers in the province. Many, many organizational models can demonstrate how this approach has improved their services, maintained costs and retained talent.

Attunement: This is the gold seal. Many organizations are really good at doing all of the above, but when you bring attunement to the process, you introduce the element that holds it all together for the long term. Attunement takes practice, and it avoids the flavour of the month. It takes time and talent. There are many readings, and I made a couple of references to Zander and Zander and the Art of the Possibility which we can draw on.

0940

The reason we have taken this approach is that we live in an era of change without structure, programs without adequate funding, and work and projects that go nowhere which, in a time of need, are wasteful. We need to do things differently, but we need to do it right.

We, in the agencies of Community Living Dundas, Stormont and Glengarry, take stewardship roles very seriously. It is extremely important that this bill be crafted to ensure that we have all the elements that require sound legislative practice and an operational structure from which to create necessary services and supports. We all have a lot to learn about charting change in this sector, and the need for structure and flexibility is a balancing act that must be achieved.

We have developed a supplementary response in conjunction with Community Living Ontario's position. Our response recognizes issues that may be unique to our geographic area and issues that impact the system as a whole. We're pleased to present them. There are 19 recommendations, and I will not go over them in the interests of time, but I will touch on a few highlights. Therefore, I'm going to skip some. You'll see we have a lengthy presentation. I really would beg you to read that because we spent a lot of time and thought in how to assist you with a structure that will support us.

We move to scope and purpose. Community Living Ontario notes that we require a preamble; we agree. This would set clear direction for the intent of the legislation, and we would suggest it would embody the following: embrace the tripartite stewardship approach and build in vision of abilities, shared values, ethics, accountability, alignment, attunement, and of course our magic standards. That would be really important.

Recommendation 4 is two pages, and that is persondirected planning. We feel passionately about this and our communities have a unique approach to some of this. I will not try to paraphrase and monkey it up. I will draw your attention to the following facts: We see you setting the vision first by person-directed planning, then you conduct the assessment, and then you assess the supports, formal and informal, to make a whole plan, not for the services; it's a plan for the person. So often we fit round pegs into square holes because we have a vacancy here or there. We need to plan for the person and develop services for the person. Some of the key issues that we need for that are high-quality case management, services available close to the people in the area, and we need not to waste dollars on running around and travel expenses when the services need to be close to the client.

Please correct my page 7 as I overstated the geographic kilometres we serve; it's 7,000 square kilometres, not 12,000. My apologies.

The famous waiting lists: We've already referred to the 1,000 applications already on Passport waiting lists, and that's this year. If waiting lists become a right, we have failed. We must avoid legislation and policy changes that recognize waiting lists as a right. There's a second problem with allowing waiting lists. When funding is inadequate and there is a waiting list, the service becomes watered down. I point to the health care system where three baths a week became one, where

light housework became no housework, where nursing services became eight to 15 visits a day. We must learn from the health care sector. They have introduced change in the home care sector creating 43 CCACs all with infrastructure, and we heard Mr. Hagerman's costing on that. It would be a bureaucracy that is not needed and a cost we can ill afford.

We understand that the government needs to plan for all the people we need to serve. However, we don't have a method by which we can account for the people who we should be serving. We're recommending that we have a method of looking at who needs to come into the system, who is on the waiting list, who is currently served and who potentially has fallen through the cracks. It is really important that we get a handle on that because, as I've repeated before, if you don't know what you're managing, how can you plan for it and how can you budget for it?

This legislation must envisage a high-performance sector framework where the funding is maximized and accounted for, where talents are managed, where there are retention success indicators and where waiting lists are not the norm.

Application centres: This is very near and dear—

The Acting Chair (Mr. Dave Levac): You have one minute.

Ms. Ann Hysert: Okay. We currently have a collaborative process in the three counties, and there are many benefits from that. We believe in that, and I'll ask you to read number 6.

We also would like, in number 7, to move to an accreditation versus an inspection framework. That would be very central.

I want to speak very quickly to number 9. We are opposed to Community Living Ontario's position that suggests that the agencies should fall under HLDAA. If agencies are covered by HLDAA, they could face potential arbitration wage settlements that could result in increased costs that would perhaps affect an agency so significantly that they could be bankrupt. We support competitive wage structures for employees and we respect that our employees have the right to strike, but we contend that they only have the right to picket locations that are work locations and not the residences for our people. I'll ask you to look at the issues in the rest of that recommendation.

Very quickly, I'm going to touch on protections and appeals. When we go to a variety of options for people, we need to guard against a discount brokerage service—not to say that we don't support people having choices; we need to guard against substandard wages and substandard working conditions.

I will close with this: The approach we have taken is to use leading-edge frameworks and talents within agencies, families and individuals to chart change. If this process dies today, we will all have missed a great opportunity. Our model envisages an ongoing tripartite approach that will support all we serve. I thank you for allowing me to get that all in. If you legislate it, you must fund it or you're sending us all back through the hopper.

The Acting Chair (Mr. Dave Levac): Thank you very much. You stayed relatively close to the 15 minutes. We appreciate your time and your presentation. We'll carry the leftover time to the NDP in the next round.

I will relinquish my chair to the Chair. Mr. Happy Feet will now leave.

RICK McCABE

The Vice-Chair (Mr. Vic Dhillon): Good morning. The next presentation is from Mr. Rick McCabe.

Mr. Rick McCabe: Thank you. For the record, my name is Rick McCabe. I am here as a parent of a 34-year-old developmentally disabled daughter who is currently receiving services through a transfer payment agency funded by MCSS. For that, we are extremely grateful.

I want to thank you for giving me the opportunity to put forth some of my thoughts on the proposed revisions to the act and regulations to provide services to persons with developmental disabilities.

In all of my efforts, I have two main goals: first, to have services available to a greater number of individuals, and one way of doing that is by more efficiently using the existing resources; and secondly, to have a service which is primarily focused on the needs of the residents. Today, there are too many agendas—some hidden—and the focus is not on the residents.

I would love to be involved in a detailed debate on the act, the regulations to follow and any guidance needed to clarify the intent of certain provisions. If, in fact, such an opportunity should arise, I would quickly volunteer.

I wish to make a point today that this act and regulations require very careful scrutiny. I'm going to use a section of the act, clause 27(4)(d), as an example. This section gives powers to the inspector and quickly places unnecessary and crippling constraints on the inspector's power. The section empowers inspectors to inquire from any person on the premises, including residents or other persons receiving services from an agency. The rest of the subsection is irrelevant to my arguments.

0950

First, this section limits the range of persons the inspector can question to those on the premises, a limitation which should not be placed on the inspector.

The section presumes that residents can adequately respond to the concerns or poor conditions. It appears to preclude advocates. My own daughter's inability and shyness to express concerns should not be construed as an endorsement of the services provided to her. While I'm alive, that is my responsibility, and the inspector cannot even speak to me.

Thirdly, this section does not empower the inspector to compare services to the written commitments made to support the resident.

These deficiencies need to be discussed and finalized in a thorough review of the act and regulations. Every time the words "as may be prescribed" appear, the decisions have not yet been made and need to be considered in the context of the entire regulatory regime, and queried to the same level as the above section.

I'm doing here what comes naturally to me, but this does not meet my objective today. My time today is very limited, and I feel I can better use it by looking at the broader picture and focusing the rest of the review of the act and regulations on three main areas. I am confident that if the revisions to the system are guided by principles and not self-interest, the result will meet the needs of clients and the Ontario public, the two most important groups needing to be served by this act.

I expect you will be inundated with those conducting detailed analysis of the act and seeking revisions to make it less restrictive, to maintain the status quo, and telling you that the system only needs minor revisions. I categorically disagree with that assessment and am very pleased that the act that is currently drafted more ade-

quately reflects the position of most parents.

The concept of direct funding alone makes a major leap in improving on the three areas I wish to touch on today: accountability, advocacy and transparency. None of these issues is mutually exclusive and you will see this in my limited presentation this morning. I'll attempt to

explain the larger perspective on these issues.

I see the lack of accountability of the transfer payment agencies, but also the MCSS, as the greatest current deficiency in the system. Without accountability in the financial area and on reporting the delivery of service to clients, no one will ever be able to provide assurance that the resources allocated to this area are being used effectively and efficiently. Inefficiencies in the system will never be identified and rectified without clear accountability based upon solid performance objectives. We need to make this system efficient to serve the greatest number while maintaining accountability to Ontarians.

I have an example of the lack of accountability which supports my contention. The following example should be of great concern to anyone impacted by the system. In a report entitled The Review of the Process for Adults with Developmental Disability in the Ottawa Region to Access Services—what a long title—dated May 2006 and commissioned by the Ministry of Community and Social Services, the consultant very diplomatically and too kindly reported:

"For example, specific expectations related to reporting of vacancies and participation and service resolution are not addressed, and a broad interpretation therefore exists amongst transfer payment agencies of their

obligations in this regard.

"To ensure accountability, MCSS must be clear in its requirements of the transfer payment agencies involved in the process to access services. Without this clarity, it is virtually impossible to hold any transfer payment agency fully accountable for its actions. Transfer payment agencies have been placed in the position of defining their own role and responsibilities as it relates to the process to access services. This interpretation may not be in the same context as that which is intended by their funder."

I'd say she was too kind. What this really means is the agencies have been allowed to maintain vacancies for extended periods of time and did not have to report this to MCSS despite the hundreds of people on the waiting list. That is not accountability.

Verbal evidence provided in support of this statement, while not contained in the report, indicated about 38 vacancies existed for months at a time. Where did the resources go that were designated to these vacancies? That is the first question that pops into my mind, but not the only one. This clearly demonstrates a lack of accountability, a lack of clarity in expectations and the need for revisions proposed by this act. Accountability to parents and residents also needs to be added to this consideration. The financial accountability is generally understood, but there is also a need to demonstrate clear and consistent implementation of the needs of the clients.

The greatest need is for persons with developmental disabilities to have others assist them in making the right decision to protect them and to enhance their lives. This should be accomplished somewhat by procedures specific to the residents' needs and activities. Currently this is inconsistent, ranging from the procedures not even existing to not being followed and being subject to frequent breakdowns.

Failure to provide for the clients' needs is of grave concern to parents. This type of accountability to the residents needs clear inclusion in the legislation, and probably in the regulations. I suggest revisions such as requiring agencies to develop, maintain and implement written procedures to address clients' needs. This very prescriptive approach to regulating will be helpful in other areas as well.

I would be remiss if I did not endorse the need for clear accountability from parents in direct funding arrangements as proposed by this act. Every aspect of the system needs to be accountable. I am confident the limited resources expected in this sector will receive careful attention. But financial responsibility is only one aspect of accountability. There is also the need for performance standards for all service providers. We must be able to quantify performance where the service is amenable to this. I have requested the MCSS to provide me with the performance standards, which I assume form an integral part of the current agreements with the transfer payment agencies, only to be told, "The agencies are accountable," with nothing to substantiate that assertion. This is confirmed also by what was in the consultant's report that I referred to earlier.

Accountability to parents and advocates has to become the standard for the sector. Some agencies have considered themselves to be advocates, yet it is my contention that the needs of the residents are not being met. How can you consider this as an option? We can't.

The transfer payment agencies are reasonable-sized businesses, needing people in charge who understand the strategic planning, accounting, human resource issues etc. to lead these businesses in the right direction, not just to keep them alive. It is time to ensure that the agencies are run by leaders and managers, in the most generic

sense of these words. It is my contention that there are substantial resources within the sector to increase both the number served and the quality of service. I can't prove it, because I can't get the quantitative information to demonstrate it.

That leads me to my next point: transparency. Nothing frustrates and demeans parents and advocates more than being told you cannot have information that in no way has confidentiality implications. Gross numbers without identifiers would in no way breach confidentiality. In fact, the confidentiality argument is used over and over to restrict the flow of information to parents. Parents are left to draw their own conclusions based upon the limited information available to them. Trust is eroded and the workload for all parties is increased in an effort to stay on top of the situation.

Transparency in the work of MCSS and the transfer payment agencies, with defined limitations, would quickly reduce the workload, improve trust and add to efficiency. If the information does not exist, it's of concern. If the information does not meet current expectations, it's of greater concern. And if the agency fails to recognize a need for the information, it is of great concern

The job for us, then, is to define what information the MCSS requires and what information would be available to families, if requested.

1000

Each and every person in the system needs to have an advocate, whether it's a family member or someone else. I have observed great variability in simple things, like the furnishings provided to people within the system, sometimes to the point of being woefully inadequate for the needs of individuals. If these relatively easy items are not dealt with consistently, what is happening to the more subtle needs? These types of things—furnishings—should be observed by the inspectors under the new regime, but the inspectors will need assistance. Most likely, only an advocate will be able to pick up on the more subtle needs. Advocacy is not the work of the transfer payment agencies, nor can they do it. It is a clear conflict of interest and should never be substituted for a third party advocate.

In conclusion, I saw a television show a little while ago—it was a reality show for me—where an aging father was sitting in a hospital as his daughter was ill and undergoing painful treatment. Earlier in the show, we learned his wife had passed away and he was the sole provider for his daughter, with little hope of finding adequate services for her. Worry and fear were evident as he spoke to the nurses and doctors.

In a moment, as he sat alone, while summarizing all of the difficulties, frustrations and fears of raising a developmentally disabled child, he concluded: "The best you can hope for is to outlive your disabled child." If parents continue to feel this after the current revisions to the act and regulations, we will all have failed.

Now is the time to put forth all of the principles for the revision to the act and regulations, including accountability, advocacy and transparency, and to work diligently toward them. Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. You were right on. You used up all your time, so there won't be any questions or comments.

COMMUNITY LIVING UPPER OTTAWA VALLEY

The Vice-Chair (Mr. Vic Dhillon): Next we have Community Living Upper Ottawa Valley. Good morning, folks. If you state your name for the record, you may begin.

Ms. Noreene Adam: Good morning. My name is Noreene Adam. I am the first vice-president of the board

of Community Living Upper Ottawa Valley.

Mr. Paul Melcher: Good morning. My name is Paul Melcher and I'm the executive director for Community

Living Upper Ottawa Valley.

Ms. Noreene Adam: I'm going to start off. I have a number of titles to my name. I've told you, first vice-president, and most of them are under the heading of "volunteer." But this morning I want to talk to you about the one that's most important to me—as mother and parent.

I'm the mother of a 34-year-old man who has an intellectual disability. My son Kirby and my family truly appreciate the assistance we receive from the Ministry of Community and Social Services that enables my son to live in his own home, in his chosen community of Pembroke, and to have access to the supports he needs to be successful from Community Living Upper Ottawa Valley, from friends, from neighbours, and of course from our family.

I find it interesting that the Developmental Services Act, which we now see is being changed to a new act under Bill 77, was passed in 1974, the same year my son was born. We've had a lot of experiences under it and I am in full agreement with its being changed to reflect today's knowledge and ideas about people who have an intellectual disability and who can do so much more than what society used to think.

I'm quite excited that the government has proposed Bill 77, and I eagerly look forward to its implementation. As a parent, I see a number of really good things evolving from that new legislation. I really appreciate the statement in the compendium, which says that "the proposed new act recognizes that people want choice and more control over their lives, and that they can live independently with the right supports." I like to hear that the government is saying this and has even put it into writing. This is exactly what my son tells us: He wants to live in his own home, he wants to have a real job—and by that, he means getting real pay. He wants to enjoy leisure activities that he chooses, and he wants to do all of that in the same way that his brother and sister do.

However, there are a few parts of the proposed legislation that do give me cause for concern. I'm going to speak to only two of them this morning because of time

constraints. The first cause for concern is the area of legal capacity and decision-making. From what I have read and understand, Bill 77 does not seem to recognize that a person with an intellectual disability has the right to legal capacity. You, the members of this committee, and the government itself must understand and recognize that gone are the days when people who have an intellectual disability are considered as children or childlike. These adults must have the same rights as everyone else in a just society.

I think that there must be a provision in the new legislation that absolutely recognizes legal capacity. I feel there also need to be provisions for supported decision-making, and this is completely different from substitute decision-making.

As a parent, I do not want to make all of the decisions for my son when I know that, provided we listen well to him, he can make many of these decisions for himself with the appropriate information provided to him in ways he can understand. I strongly feel that there must be provision included in Bill 77 that acknowledges and supports that right for legal capacity and, for some people, the provision of supported decision-making. To me, this is what helps a person to be a real citizen in Ontario.

The second concern I have is about planning. I have noticed that in Bill 77 it does not specifically mention that there will be any funding available for persondirected planning. For me and my son, planning was the first and probably the most important thing that was done when Kirby moved into adult life and services. How can someone know what kind of help they need if they can't identify it and if they can't then make plans to achieve it? Planning is the guide to a future life of one's choice. You and I do planning all the time, but are probably just not conscious of how much we plan our lives. My son and others like him who have an intellectual disability often need help to learn what they want to do in their lives. This help can be provided by someone who assists them with planning. But folks who live on disability benefits just cannot afford to hire someone to help them do planning. They need help to plan for the life they dream about. Actually, it was a surprise to us that when planning was done with Kirby, we found out that there were several things he wanted from his life that could be done without needing to get dollars from the government. If we had not had planning services, then we would not have known this. I thought this was really great, because then we didn't have to ask for extra government funding, as we had originally thought he would need. Families and individuals do not always want to be dependent on government handouts all the time.

Now, these are just two of the concerns I have as a parent regarding the new legislation, but I just want you to know legal capacity and independent planning are, to me, the cornerstones of a really grand life here in Ontario. Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We'll begin with the NDP. Mr. Prue?

Ms. Noreene Adam: Paul, we're short of time.

Mr. Paul Melcher: I'm sorry; I'll be brief.

The Vice-Chair (Mr. Vic Dhillon): Sorry. That's the second time I did that.

Mr. Paul Melcher: As was stated, my name is Paul Melcher, and for the past 15 years I've worked for Community Living Upper Ottawa Valley. I have over 28 years of experience in developmental services in many different positions. I have come to know and admire many individuals, families and professionals over the years.

I started my career during the proliferation of developmental services in the province. Many sheltered and segregated programs were established under the first major provincial initiatives to emancipate people out of provincial institutions. A key element to these early initiatives was the provision of additional resources to support people already living in the community. In those early years, community service models were largely based on the medical or institutional care model. This translated into people being treated, corrected, protected and provided care.

1010

In time, services evolved, first in teaching adaptive skills to assist people to gain independence and achieve less reliance within the service system and then, to varying degrees today, to supporting opportunities for self-direction and community inclusion. Developmental services, despite often struggling and sometimes stalling, have made progress. Throughout the years, people and their families, although often frustrated, have continued to advocate for rights and supports in citizenship.

Community Living Upper Ottawa Valley wishes to thank the Standing Committee on Social Policy for the opportunity to speak to Bill 77 and citizenship for people affected by intellectual disabilities. We would like to start by acknowledging the need to update and replace the legislative framework for the provision of developmental services in the province. Experience has demonstrated legislation can lead to monumental shifts in how we as a society assist vulnerable Ontarians and their families. The Developmental Services Act of 1974 ushered in an era of community-based services and ultimately, now, the closure of provincial institutions, a necessary and tremendous accomplishment.

The new act, with revision, has the same potential to provide a foundation for needed change. Consultations across the province support further deinstitutionalization and evolution of community-based services, while also calling for the creation of new and innovative approaches to supporting citizenship.

Community Living Upper Ottawa Valley supports enactment of new legislation to guide the provision and administration of public funding to support people affected by intellectual disabilities through a fair, equitable and responsive system of services and support strategies, which includes individualized funding.

The role of developmental services should centre on bridging gaps and linking people, as they desire, to the social, human, political, economic and natural capital in their community. That capital is our citizenship. Developmental services legislation should impact all branches of government and the broader public sector.

The Ontarians with Disabilities Act provides a framework, which may be beneficial in the context of Bill 77 and engaging others.

Absent from Bill 77 and pivotal to reformation is mandatory person-centred planning to relate and respond to the needs and wishes of people in regards to their community roles, relationships, safety and well-being. Decisions that directly affect each person must be made by that person, with the appropriate level of assistance of families and others they choose.

Service standardization should be minimized to allow the greatest amount of personal autonomy and flexibility in the system. There are many ways to plan, design, coordinate, administer and provide services and support. People need to determine why and how this occurs within a framework of expectations in the act or its resulting policy framework.

Accountability to each individual must involve strategies to enable people most affected to evaluate the outcomes and progress towards their goals and the effectiveness of their services and support. They should also have the opportunity to participate in external review mechanisms. Complaint and dispute resolution should be prescribed in the act through internal agency and ministry processes and, when necessary, external mechanisms.

New compliance powers within the act need to be incremental processes inclusive of remediation, enforcement and appeal mechanisms. A role for stakeholder involvement in these processes is essential.

Those providing service and in receipt of public funding must clearly demonstrate assurances for basic outcomes of health, security and safety as a function of the provision, coordination, administration and governance of their services. External forms of review and accreditation should be required and supported by the province.

Broader stakeholder input and participation in local and regional decision-making is necessary to leverage and develop community resources and other forms of support. Greater involvement of community in developmental services will lead to greater inclusion of people and help reduce wait lists.

Rationalizing fairness and equity in funding through assessing levels of need must also involve evaluating quality-of-life issues, personal preferences and equity of outcomes. Ontario has seen similar changes in education, child protection and long-term-care sectors relating to funding, all of which have been revisited, especially as they relate to outcomes for the safety and well-being of vulnerable people.

Community Living is concerned the new act speaks to creating specialized access agencies. We support one provincial application and assessment process, but believe implementation needs to be determined through community consultation to ensure effective and efficient use of resources in the face of growing waiting lists.

Rather, the act should identify the outcomes it expects from one provincial application and assessment process, realizing specific models of delivery may come and go.

In conclusion, revisions to Bill 77 have the potential to empower people, communities, and the broader public sector beyond the limits of the developmental service system.

Legislation will affect decades to come. What must developmental services accomplish during this time?

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We'll begin with Mr. Prue.

Mr. Michael Prue: How much time?

The Vice-Chair (Mr. Vic Dhillon): A little less than a minute. Just very quickly, please.

Mr. Michael Prue: Okay. One question, then. This relates to the application centres. Many people have been critical of them because of the potential bureaucracy and probably enormous cost. Would you and your group prefer that the application centres be deleted from the bill and the money that would be spent there spent on direct service?

Mr. Paul Melcher: Yes. We see that there's room for improvements in access and helping people relate their information within the—

The Vice-Chair (Mr. Vic Dhillon): Mr. Ramal.

Mr. Khalil Ramal: Thank you, Mr. Chair. I'll be quick. You talk about legal capacity. The proposed legislation assumes that individuals with developmental disabilities have the capacity to make decisions about their service and support needs on their own with assistance from family or friends or whoever. This would be in place in the new act if this passed. Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Ms. Elliott.

Mrs. Christine Elliott: Just a couple of quick comments. Your presentation was really informative for me because you answered some lingering questions that I had, both from the agency's perspective and the parents' perspective. The one that I'd like to centre on is with respect to planning and the importance of planning in answering questions when you might not know what's out there.

Planning is really important to help you gather that information both from the agencies as well as from the community, and that there can be many services and programs that can be accessed that might not cost any money. The money part of it is important, but also the social inclusion part that comes into that is really important as well. As a parent, I'm really happy to hear you say that you're pleased with that part of it. Many people have said that they believe the planning part of it necessarily has to happen before the application, and I gather you would agree with that.

Ms. Noreene Adam: How can you think of where you want to go if you don't plan?

Mrs. Christine Elliott: Exactly. I agree too. Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

FAMILIES MATTER CO-OPERATIVE INC.

The Vice-Chair (Mr. Vic Dhillon): The next group is Families Matter Co-operative Inc.

Welcome to the committee. If you can state your names before you begin, that would be very much

appreciated.

Mr. Paddy Fuller: Yes. Good morning. My name is Paddy Fuller. I'm the acting president of Families Matter Co-op. First of all, I'd like to thank the committee for the opportunity to appear before you today. We appreciate that very much. Families Matter Co-op is a small not-for profit charity that works to increase the opportunities for employment and housing for persons with developmental disabilities. We also act as a forum for families where the families can share information, gather strength from each other and act as advocates on behalf of the family members.

I'm joined here today by Marge McCabe, who is our executive director. She will be making the submission on

behalf of Families Matter Co-operative.

Ms. Marge McCabe: I'm Marge McCabe. Families Matter Co-op is committed to respecting personal support choices made by families, being strong advocates for respect and dignity for all our family members, being a catalyst for increasing community capacity, especially in the area of residential and employment opportunities, and being a family voice for change and improvement in the way supports are provided.

We are very encouraged by the efforts of the Ministry of Community and Social Services to revise the Developmental Services Act, and as stakeholders, we appreciate the opportunity to present and be valued participants in the process. We know that the decisions made in revising this act will have a major impact on the future of our family members. Our hope is that this will provide the framework for full citizenship and participation for all individuals with developmental disabilities in the province of Ontario. To ensure that all of our family members have as much control over their lives as possible, whether families and individuals choose direct funding or agencybased funding, the client should be the focus and his or her family or support network should be involved to the fullest extent in decisions that will affect the client's life. 1020

We request that the following underlying principles be considered in Bill 77:

- —person-centred plans include a long-term view of individual support needs and access to reviews and updates and reassessment as required by individuals and families:
 - —the focus be on person-centred supports;
- —accountability, transparency, and independent and unbiased assessments;
- —family/support networks be included in assessment and evaluation of service provision;
- —performance indicators be required for service providers;
- —respect for families and support networks, as participants in supporting individuals;

- —the ministry encourage innovative supports and services, not one-size-fits-all;
- —equity in accessing support for all levels of needs. Prevention is less costly than crisis intervention;
- —advocacy for all individuals being served. Advocates are an independent voice to speak on behalf of individuals without family support;
- —appointment of an independent advocate if individuals do not have immediate families or support networks:
- —access to all information, for all stakeholders, about supports and services, funding, opportunities, reviews, reports and evaluations concerning the developmental sector.

Families Matter Co-op has chosen to focus on three areas: application centres, planning, and funding.

Number one, application centres: We believe that application centres should be the first place that families and individuals receive information on all community resources; education on how the system works; training for navigation of the system; connection to support groups at all life stages, at all levels of functionality; and for common and shared interests.

If the responsibilities of application centres, as set out in Bill 77, are to be effective and efficient, they should have a clear mandate; be adequately resourced, with transparency, accountability to clients, families and the ministry; be cost-effective; and have regular monitoring by the ministry and reporting to stakeholders through advisory bodies or other mechanisms. But we believe that objectivity will be compromised if the same body is responsible for all of the procedures as listed in Bill 77, and we see it as a potential conflict of interest.

I just want to add that families fear that too much of the budget will go to these centres. As mentioned by others before me, families want more funds for support, and most of us have already had many assessments without any implementation.

Our recommendations are:

—that application centres be responsible only for the procedures of determining eligibility for services and funding, and determining the method of assessing the needs of a person with a developmental disability for services;

—that independent committees, composed of all stakeholders, be responsible for the function of determining the method of prioritizing persons for whom a

profile has been developed;

—that the regional offices of the Ministry of Community and Social Services be responsible for determining the method of allocating and for the allocation of ministry resources among persons with developmental disabilities, providing the guidelines used for the prioritization and funding allocations to all stakeholders, and reviewing decisions on a regular basis and providing summaries to the stakeholders.

Our second point, planning: Person-centred planning is very important for all individuals with developmental disabilities and their families. Families need to be able to trust that the person assisting with the plan for their family member's future is objective and unbiased. Navigating and understanding the system can be very difficult for self-advocates and families. Planning should be unencumbered and funding be available for families who choose to go to independent planners. Independent facilitators and third party planners should be appointed to oversee and review person-centred plans for individuals without families or support networks.

Our recommendations are that person-centred plans should include an option for funding if families choose independent planners, and that they be completed in an unbiased manner, separate from service providers and access centres. The families should be well informed and provided with up-to-date information about available planners and facilitators in their communities.

Our third point, funding: In order to make informed decisions in choosing between agency-based or direct funding, families and support networks need to be educated about the ministry's requirements for accounting, monitoring and reporting, and they need information about what can be expected and acceptable when their family members are receiving supports and about how to address their concerns and complaints regarding support services being provided.

Families' concerns and past experience is that individuals being served by residential support agencies, especially those without family members, become isolated from the community, surrounded by paid workers with minimal or no connection to advocates or circles of support.

Our recommendations are, when agency funding is the choice, that families and support circles be provided with information on: ministry requirements for accounting, monitoring, reporting procedures; guidelines on what can be expected and acceptable when family members are receiving support; a process for addressing concerns and complaints regarding support services; and, a process of switching from agency-based to direct funding, if that's their choice, but vice versa.

We also recommend the establishment of an independent advocacy or facilitator panel, ensuring connection for all residents supported by funded agencies and, further, a process for registering all the individuals with the independent advocacy or facilitator panel upon acceptance with agencies. This process could be simple. It could be yearly reviews of person-centred plans, yearly meetings with residents and support circles and submitting yearly reports to the ministry.

Direct funding: In addition to annualized funding for residential and daytime supports that are being considered in Bill 77—and Passport funding—we believe the ability to access in-and-out support dollars would lead families and individuals to become more empowered and encouraged to create more innovative community supports. Families would be more able to cope with the constant demand of their loved ones. It would increase choices, suit more families' needs, cause less stress and could ultimately prevent family breakdown. Family breakdown is one of the factors that frequently con-

tributes to the inability to support our family members with developmental disabilities. This preventative measure would help in avoiding crisis situations that frequently force families to give up and seek annualized 24-hour funding by the ministry.

Our recommendations are: to increase Passport funding to enable more individuals to transition from high school to adult life and enjoy full participation in their communities, whether they choose vocational, employment, therapeutic, leisure, recreational or other activities; to consider the example of special services at home funding in setting criteria for accountability and proper management of Passport or other direct funding; and, to provide funds for in-and-out services, on an asneeded basis, to support families at different times in their lives, in different stages.

These funds could be used for more subsidized respite in and out of home to sustain families when they want to keep their family members at home; for outreach services from ministry-funded agencies or private providers in family homes or community settings, which would reduce the waiting list for full-time support; and, access to mentoring or job coach services for families that find employment or daytime opportunities for their family members, but have limited access to mentoring or support when there's a problem in the workplace or at a program.

Innovative funding: Our members would like to see more partnerships between families and agencies in the area of housing and social enterprise. The innovative residential funding model is a good example of how families can work with agencies to create great opportunities for more individuals, especially those who need minimal support, to leave home. Families Matter Co-op's partnership with the newly established McLean Co-op and the support agency of Christian Horizons is a good example of how families and agencies can work together in partnership.

Our recommendations are for more widely distributed information by the ministry regarding new ideas and methods of how families can work with agencies that could strengthen families and build stronger communities; education sessions in communities on opportunities such as the innovative residential funding model; and, communication about this opportunity and others, through websites, e-mail, mail and other methods, even the ODSP allowance notices for families that do not have access to the Internet.

I thank you for this opportunity. I don't know if I have any time for questions.

The Vice-Chair (Mr. Vic Dhillon): Just about a minute each. We'll begin with the government side. Mr. Ramal? Just one minute each, very quickly.

Mr. Khalil Ramal: Thank you very much for your presentation. It was a wonderful presentation. I want to ask a question. We've been listening to many different organizations, agencies, communities etc. for the last three days. It's been mentioned that families cannot do the job we do, therefore, there shouldn't be direct fund-

ing. You stated in your statement that you're working well and that you're happy with the proposed bill because it gives you a chance to look after your loved one. What do you have to say to those organizations that said what they've said in the last three days?

1030

Ms. Marge McCabe: Of course, we're very hopeful because we believe families have the right to choice, whatever choice they make. But we also know that there's such limited opportunity if you're on a waiting list, as other people said, for 15 years sometimes. Give families some hope by at least opportunities to build in the community and encouraging them to work together with the system. Right now families are feeling very disempowered. No matter how much you want to try and work with the system, it's like—we feel we're not valued stakeholders. I think everyone's missing a big opportunity to include families and to work together and have some creativity.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Ms. Jones?

Ms. Sylvia Jones: Thank you very much. I appreciate your presentation. You raised some issues with the application centres, and I wonder if you could comment on the government position that the setting up and operation of application centres will be revenue-neutral and will not bleed limited resources from within the sector. Can you comment on that?

Ms. Marge McCabe: Setting up will be-

Ms. Sylvia Jones: It's not going to cost any additional dollars.

Ms. Marge McCabe: Well, families don't feel that way.

Ms. Sylvia Jones: It's a little hard to believe.

Ms. Marge McCabe: We have a great concern that—we see the system as it is right now, and now we see it getting bigger and bigger. We believe that there has to be an access process, but we have a concern about building bigger bureaucracies because people need support, and there are many ways to do that.

Ms. Sylvia Jones: Particularly if you're going to use the funds within the existing sector.

Mr. Paddy Fuller: I think the main point is that the system as a whole, no matter how you change it, is underfunded. Changing the system without doing something with the funding, I think, will not address all the problems.

Ms. Sylvia Jones: Good point.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Mr. Prue?

Mr. Michael Prue: Some of the groups have said that to properly fund the existing system, never mind change it, would cost about \$350 million extra. In your advocacy, do you think that the government should be spending the money first and then changing the bill, or do you think that this is the correct way to have gone? They're building hope without any show-me-the-money attitude.

Ms. Marge McCabe: Of course, we're hoping that they will change the bill and have the money there, but I think that sometimes lots of opportunities are being missed because there are lots of assets in the community that could be used. There are many families who want to be involved, and there are other mechanisms that could be put in place that encourage families to work with the system and maybe a way of leaving assets instead of trying to hide your assets, that kind of attitude, because the only way you can get service is to line up at the access point. I don't know if I missed your point, but—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. Thank you for appearing today.

PROVINCIAL AD HOC COALITION ON BILL 77

FAMILY ALLIANCE ONTARIO

The Vice-Chair (Mr. Vic Dhillon): The next group is Provincial Ad Hoc Coalition and Family Alliance Ontario. Welcome to the committee. If you can state your name before you present.

Ms. Kathleen Jordan: My name is Kathleen Jordan, and I am speaking as a member of the Provincial Ad Hoc Coalition on Bill 77 and as a board member of Family Alliance Ontario representing the eastern region. The raison d'être for my personal participation in this sector for 34 years is here beside me, and he is participating and contributing today as my timer. I would like to introduce Christopher Campbell Jordan and his very dear friend Melodie Grealy, one of his associates. Start the clock, there, boy.

The launch of Bill 77 represents a significant step in moving the transformation of the developmental services agenda forward. The government is to be commended for this initiative, especially for including provisions for closing institutions and for introducing direct individualized funding. There are a number of topics that I would like to emphasize today that are among those identified by the provincial Ad Hoc Coalition and Family Alliance Ontario specifically. Because of time constraints I will list and speak briefly on the points that I can cover, focusing on those that we perceive to be vital to the success of this bill. I believe that these suggestions will help to clarify and strengthen the legislation.

Number 1, the title of the bill: The name of the bill needs to reflect more accurately the stated purpose of reform. If the title were changed to "An Act to enhance social inclusion for persons who have developmental disabilities, to repeal the Developmental Services Act and to amend certain other statutes," then the bill would reflect this intention.

A preamble to this legislation is essential to record and authenticate the spirit and intent of the legislation. This tool is intended to direct the advancement of the legislation towards its stated goals. It will define the values, principles and beliefs that will drive the regulations and policy development of this legislation. When the

transformation of developmental services began in 2004, the Ministry of Community and Social Services developed a set of values and principles to guide the process. These values and principles are documented in the 2006 paper Opportunities and Action. Unfortunately, these values and principles are not evident in Bill 77 as it currently reads. This legislation should be intended not only to reflect the transformation with the developmental services sector, but to advance a much broader concept of social justice, one which respects the inherent dignity, individual autonomy and the full and effective participation and inclusion of all people, condition notwithstanding. A diagnostic level of developmental disability has served to marginalize and disenfranchise our loved ones. It still does.

The language of the bill: The language used within the document should be easy to understand, consistent and respectful of the autonomy of the individual. The legislation needs to give a voice to the people that it's intended to serve, their families and their social networks. In the compendium to Bill 77, there is consistent and constant use of the phrase "services and supports," and yet in the bill itself the term "services" is used exclusively with hardly any mention of supports. "Services" and "supports" have different meanings. They are not to be used interchangeably. The only reference in the bill to "supports" is in section 4, where the legislation defines "services." The term "supports" in this case is used in reference to the nature of services. This is not adequate to reflect a new vision that includes support as a completely different concept to traditional services and programs.

Not only does the choice of words in the bill need to be revisited, but the manner in which the activities or concepts are expressed. I refer you to part IV, section 9(2), and part IV, section 11(2). The legislation directs that the application centre or the government can enter into a direct service agreement with a person with a developmental disability or other persons on their behalf. It is this phrase "other persons on their behalf." What this section should say is that the application centres can enter into a direct service agreement with a person with a developmental disability or with the individual and his or her chosen support person. These words reflect the autonomy and the legal capacity of the individual to make significant decisions with his or her own chosen support. This is what supported decision-making is all about: to do with rather than for. To deny this opportunity to any group of persons based on a collective label is to perpetuate exclusion and legitimize discrimination. 1040

Direct individualized funding, person-directed independent planning and facilitation: The Family Alliance Ontario and its colleagues have been working with the government for 20 years to establish direct individualized funding options and we have witnessed these programs stalled or stopped. This topic is a very important part of the DSS transformation agenda. It should not be covertly introduced in Bill 77 under a heading related to services. There is no section on direct and individualized services.

It comes right at the end there. Direct individualized funding deserves to be attended to within the bill in its own specific numbered part—part IV or part VI; call it whatever you want. The bill is established in parts, but there should be a specific part for direct individualized funding.

Then, following the present format of the bill, sections with the following headings will appear: person-directed independent planning and facilitations; circles/networks of support; and, wage disparity. Let's clean it up. These are things that really should be in the legislation and we don't see them there at all.

As a parent of a 34-year-old young adult who was one of the first individuals in Ontario to be included into his local community school up the street with his brother and sister and his local friends in the neighbourhood, albeit after a human rights complaint and a lot of blood, sweat and tears—that inclusion was difficult, because the infrastructure intended to support this new legislation had not yet been identified or incorporated into the system. That was Bill 82. We got there too fast.

Also, when the special services at home program was first identified in 1982, I was very involved with the ministry in an advisory role to assist the ministry to observe and facilitate the implementation of what I suggest is the first example of direct individualized funding for families and their loved ones to help support them in the community.

But this was just the beginning of the movement. The initiative for this program was to help families to keep their children at home. Children grow up to be adults and so the program was expanded to include young adults over 18. However, only adults with a developmental disability were eligible to apply. We all learned that it is much more expensive to maintain a young adult with complex physical and developmental disabilities in the community and the communities were not prepared for this. The program has never had enough funding to meet the needs of families. However, in spite of that, institutions have closed and life in the community is becoming a more and more viable option. It will not succeed, however, unless direct funding is a real choice with the necessary infrastructure to make it a success. Independent or person-directed planning and facilitation, not to mention wage parity for independent contractors, must be accepted as part of the package related to direct funding. Without all of this, the entire concept will be nothing more than an idea, talk and a frustration for both the government and the families.

I would like to add here that there seems to be a misconception about why families want control over their lives. It doesn't mean that they will not need the support. Of course they will. They will need support to plan, recruit, hire and train workers in the community, and to provide a safe and secure environment for the family member and for his or her workers. We will want everyone to be safe. We need community building and development so our family members are welcomed in the community to learn, to work, to love, to volunteer. Direct

funding needs to be a supported choice in order for any other transformation to occur.

Adults with a developmental disability want to move out and leave the family home, just like their brothers and sisters. They want their autonomy, their interdependence, and their own friends and activities like everyone else. However, this lifestyle will require support and intervention and facilitation at all stages, all of which has a price tag.

Equity: Transformation in the developmental services sector cannot happen without a commitment of resources to make the system maximally responsive. There has been in the past unequal access to direct funding options as compared to agency service options. What is the government of Ontario going to do to ensure that the new financial resources are provided for direct funding and person-directed planning and facilitation to individuals and families as a bona fide option now that it is provided for in the legislation?

I am going to conclude now, and I just want to mention by name those articles I mentioned and the ones I didn't mention so you'll know there's still more to come.

First, the title of the bill: Rephrase it. The preamble: Add one. The language: Wordsmith it. Direct individualized funding, person-directed planning and facilitation: Experience it and entrench it. Equity: Ensure its existence. Accessibility and portability: Institute it. Legal capacity and supported decision-making: Make it an entitlement in this bill. Waiting lists: Remove them. Application centres: Change this concept to an application process. Put it in the regulations, not the legislation. There's a lot of work to do here, and I think it just takes time, power, energy and money. It'll break the bank, this one will.

Divestment: Do not do it. Please do not divest your authority and responsibility to the taxpayers of this province. Appeal process is due process: Establish it—that's what being a citizen is. Interministerial co-operation: Organize it—we need it. Community development: Fund it. Safety and security: Provide it. Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much, Ms. Jordan. Your presentation was right on the time, so there won't be any questions. We really appreciate you coming out.

Ms. Kathleen Jordan: Thank you.

BROCKVILLE AND DISTRICT ASSOCIATION FOR COMMUNITY INVOLVEMENT

The Vice-Chair (Mr. Vic Dhillon): The next presentation is from the Brockville and District Association for Community Involvement. Welcome to the committee. If you could identify yourself before you begin.

Ms. Nancy McNamara: Nancy McNamara, with the Brockville and District Association for Community Involvement.

Ms. Audrey Cole: Audrey Cole, Brockville and District Association for Community Involvement.

Mr. Harry Pott: Harry Pott, parent.

Ms. Nancy McNamara: Good morning. I'm Nancy McNamara, a parent and the current president of the Brockville and District Association for Community Involvement, of which I've been a member for over 20 years. My co-presenter, Audrey Cole, also a parent, is a former president of our association as well, and a well-known, highly respected and dedicated provincial and national advocate on behalf of people with intellectual disabilities for over 40 years. Harry Pott, too, would be happy to answer any questions at the end if we have time. He's a long-time parent with our association as well.

Our local association, known as BDACI, is an affiliate of Community Living Ontario and a local member of the Canadian Association for Community Living. We in BDACI have a 52-year history of which we are very proud. BDACI does not provide traditional services. Over 25 years ago, we transformed ourselves into providing individualized supports where the individuals with intellectual disabilities and their families direct the care and the support that we provide. Thank you for the opportunity to speak to Bill 77.

While we welcome transformation in the developmental service sector and recognize that the proposed legislation looks to address a number of significant issues, we believe that important changes to the bill are required to ensure that we create a truly inclusive society. Given the limited time we have, we will highlight the following areas of greatest concern to us.

Lack of guiding principles and statement of vision: A statement of vision and principles that will provide the foundation and rationale for reform is missing from Bill 77. They are important because they set the parameters for the provision of supports and the implementation of policies and programs that then give clear guidance and direction in the day-to-day operation of the support system. BDACI believes that new legislation must also reflect through vision and principle statements the progress that has been made over the past quarter century in the enhancement of the rights of people with intellectual disabilities.

The introduction of standardized assessment via the application centres: The lack of guiding principles that I just mentioned leads to significant problems associated with the establishment under the bill of standardized assessments carried out at application centres. BDACI is deeply concerned that these centres will create a bureaucratic structure that will require significant administrative costs that will take away from direct support dollars. If service agencies that are currently providing services are then designated as application centres, severe conflicts of interest will arise, and accountability would be undermined. We are worried that a single agency might well become responsible for determining eligibility, identifying needs and then allocating funds. Instead, as has been proven effective in many areas over the past 10 years, such as in our very own Leeds and Grenville, the collaborative access process can play a role in taking on

many of the proposed functions of the application centres, and they operate with minimal cost.

With regard to the assessment process, if government includes not just independent planning but personcentred planning and facilitation, then there would be no need, for example, to develop service profiles, as is currently contemplated in Bill 77. Person-centred planning, supported by planning and facilitation mechanisms, provides people with real opportunities to make decisions and to develop plans that reflect their goals and dreams.

We recommend that the new legislation be changed to allow for the development of an application process that builds on already-existing mechanisms, incorporates the role of person-centred planning and facilitation in the application process and leaves decision-making authority about funding allocation with the ministry's regional offices.

One of the greatest concerns centres on special services at home, also commonly known as SSAH. Part of the SSAH Provincial Coalition's slogan is "Keep it simple. Keep what works for 27,000 families!" At BDACI, we could not agree more. We are very concerned about the future of this invaluable support program. While it's not perfect, it is cost-effective, flexible and personalized, and has a proven 25-year track record of being the number one program of choice of Ontario families, including in our association over 150 families and individuals as well. Sadly, it has had no new funding for two years, and this situation will not likely be remedied if new bureaucratic structures such as application centres are added. Above all, SSAH is the most enhancing and respectful model for the individual with intellectual disabilities. It has functioned as the primer for direct funding and should be used as the model for this type of funding proposed under the bill.

I'll now turn things over to Audrey Cole, who is recognized as an expert in the field of supported decision-making.

Ms. Audrey Cole: Thank you. It's my role to emphasize the critical need for provision in Bill 77, firstly, for recognition of the legal capacity of people with intellectual disabilities, and, consequently, for the provision of mechanisms within the bill for supported decisionmaking. Without the inclusion of such provisions, as Community Living Ontario has noted, there is legislative incoherency, in that the bill, on the one hand, attempts to enhance the citizenship and independence of people through the application of direct funding, while on the other hand it fails to provide the vehicle through which the person can take advantage of the mechanism. We share the belief of Community Living Ontario that acknowledging and supporting the legal capacity of the individual is, arguably, the most transformative step that can be taken under this legislation.

Without supported decision-making, the mechanisms in Bill 77 for direct funding could be denied to many people with significant disabilities. Those meeting the demands of sophisticated notions such as legal capacity and consent would be free to make application. Others

could be denied access or could lose decision-making rights. In other words, as in the past, such people would be denied the recognition of their inherent legal capacity as citizens. Today, in Ontario, with this bill, we have an opportunity to rectify that discriminatory situation.

What is supported decision-making? Perhaps the best way to answer the question would be to say, "Hands up, those of us in this room who can honestly say that we've never, ever sought the advice or support of family, friends, whomever, in making a decision." Were I to see hands popping up around the table, I'd sense an environment of questionable veracity. Human beings don't make decisions in isolation. We're social beings. We look to each other for support in all the significant areas of our lives, particularly in decision-making.

The concept of supported decision-making as a valid alternative to guardianship was pioneered right here in Ontario. It's already recognized in law in some provinces and territories in Canada. It's now adopted in international law, under article 12 of the United Nations Convention on the Rights of Persons with Disabilities, which Canada has signed but not yet ratified. Ontario could contribute significantly to that eventual ratification by including provision for supported decision-making in Bill 77. Already, we are told, some countries are changing legislation to include supported decision-making. It's the only thing that guarantees a mechanism through which any person and every person, given the appropriate support, can enter into an agreement for direct funding without having to surrender authority to a substitute decision-maker.

It's been proven, in supported decision-making, that honest, suitable and totally unshakable decisions can be made without compromise or conflict and without jeopardizing the person's independent capacity. The validity of supported decision-making rests in the integrity of the decision and the quality of the decision-making support. Those are characteristics that are derived from mutual respect, affection and trust, and they're not diminished by arbitrary constructs of decision-making capacity. The Substitute Decisions Act already provides for alternative mechanisms for decision-making. A companion clause is necessary to validate the process with respect to matters falling under Bill 77.

BDACI recommends that Bill 77 include a provision stating that in circumstances where decisions are not made by the individual alone, the decision-making process by which they are made be deemed an alternative course of action, in keeping with the provisions in subsection 22(3), respecting property, and subsection 55(2), respecting personal care matters, of the Substitute Decisions Act.

Powers of attorney, however benign their appearance, are instruments of guardianship or substitute decision-making. By their very nature, they're prone to abuse and could compromise supported decision-making.

BDACI supports Community Living Ontario again in recommending a further provision that would clarify that, in cases where a person with a disability has granted a power of attorney for property or personal care, or both, the exercise of that power of attorney in relation to any decision pertaining to a service or benefit available under this act must include the provision of support to the individual granter, either by the holder of the power of attorney or by an independent third party, or both, to enable the person with a disability to participate as fully as possible in the decision-making process.

In conclusion, it's not only my belief, but I'm witness to the fact in many cases that no matter how severe the disability, a person can direct the course of his or her own life solely by means of the depth of commitment of his or her trusted support network to his or her wellbeing. Not only does supported decision-making work for people with intellectual or any disabilities, it works for everybody, and it's the right thing for a caring society to do.

Ms. Nancy McNamara: We wish to emphasize that the social inclusion, the very well-being of people with intellectual disabilities as citizens of our province, is dependent not only on the support that they receive that falls under the jurisdiction of Bill 77, but also on the support outside the legislation that lies within the broader community. This is where the influence of this type of legislation will come to rest. Bill 77 will contribute to the perception that the non-disabled community has about people with intellectual disabilities. It is fundamentally important that this legislation not re-institutionalize the social context for people whom it is intended to benefit by reducing them to mere needs-assessment categories and dollar figures. Instead, we are looking to Bill 77 to help build inclusive communities and to assist organizations like ours at BDACI to enable and enhance individuals' abilities to attain equal opportunity, full participation, respect and value in society.

You have the summary of our recommendations and our brief and we strongly urge the committee to address our concerns in order to create an effective piece of legislation that will assist in the social inclusion of people with intellectual disabilities. Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you. About 30 seconds each side.

Mrs. Christine Elliott: Thank you very much for your great presentation. I'm particularly interested in the supported decision-making aspect of your presentation. You may know that we have requested some additional information regarding that—we're most interested in that—from our research officer, but if you have any information that you would like to share with us, we would be most interested in receiving it and reviewing it in the context of this.

Ms. Audrey Cole: It has been and was very much a part of the process, even here in Ontario, at the time of the repeal of the old Mental Incompetency Act and the adoption of the new Substitute Decisions Act. It has not changed; it's just that we know more about it and more people are able to practise supported decision-making. There is a lot of material available. The international

materials now that have been used to make it—the United Nations—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. Mr. Prue.

Mrs. Christine Elliott: May I just ask one more question?

Mr. Michael Prue: I'd just like you to continue, because you have more to say, so just continue to say it. That's my question.

Ms. Audrey Cole: I'm sorry?

Mr. Michael Prue: You were answering a question. Please continue. You're on a roll. I only get 30 seconds. Please go.

Ms. Audrey Cole: That's enough to break my train of thought. You'd have to remind me where I was. We can provide you materials. Materials that were developed here in Ontario form the basis of the materials that the United Nations used to make their decisions, so I think we owe ourselves and we have an obligation to ourselves in Ontario to make sure that it happens here, and this is one way of starting that process, by deeming decisions under this act alternative mechanisms under the Substitute Decisions Act.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Government side.

Mr. Dave Levac: Yes, thank you very much. Not to make you feel as if I didn't have the same train of thought, let's continue. I was tweaked a little bit, though, by the concern that you expressed about the power of attorney. I know that there's a recommendation in here that we've got to get that piece right, because I understand that's where a lot of challenges have taken place. Can you explain to me a little more in depth how we can avoid that pitfall?

Secondly, when you say, "fully as possible"—in terms of participating as fully as possible—who determines that, and is that part of the judge part when you get into a power of attorney piece?

Ms. Audrey Cole: It's hard to actually answer your question in clear points. The problem with powers of attorney is that people can be persuaded to give a power of attorney when, in fact, they would possibly not meet a capacity assessment, but they can be persuaded to give, in all good faith, a power of attorney. But it is, in effect, giving away one's own authority. I think anyone who does that has to understand that that's what they're doing, and that's the problem.

The Vice-Chair (Mr. Vic Dhillon): That was a long 30 seconds. Thank you very much. I apprediate you coming out.

Ms. Audrey Cole: We're done? Thank you.

PARENTS REACHING OUT, DUNDAS COUNTY AND AREA

The Vice-Chair (Mr. Vic Dhillon): Next we have the Parents Reaching Out for Dundas county and area.

Ms. Terry Boyd: Good morning. My name is Terry Boyd. I am the co-chair for the parent support group

called Parents Reaching Out. Our short term for it is PRO. We are in Dundas county and we always have families from all over the district, even Ottawa-Carleton, coming to some of our events.

I'm also a parent of an almost 21-year-old daughter with a severe neurological disorder called Rett syndrome. She has been receiving supports from MCSS for over 18 years of her life. I am not sure where my family or my daughter would be today if it hadn't been for the supports we've received from this government.

I would like to thank you for the opportunity to speak to Bill 77. A little background about our support group and the need for support groups across Ontario: We were established to provide support, encouragement and information to families with children with special needs in Dundas county and area. Meetings, information sessions and workshops have been held to provide families with informative information. Families from all over the region, as I have said, have come to our meetings and to our events.

At meetings or private meetings when families come together, we share our concerns, challenges and successes. Very often, we have families come to our meetings with one point of issue that they're in at the moment in crisis with their children. By just sitting around the table talking, discussing, and sharing some of our own successes that other families have had, we've been able to reach out, support these families, come to conclusions and, in the end, resolve their situation. This is done without one dollar from the government. This is the power of a parent support group. We believe that by reaching out together as parents, we can make a difference in the lives of our children and others.

I would like to remind the standing committee—as I've been sitting in the background watching today, I know almost all of the families and parents who have spoken—that we aren't your average parents, if I can say that, across Ontario. Most of us sit on regional and provincial committees for our children's disabilities. Many of us sit on the system planning forum committee. Even in this region, some of us sit on the provincial committee for the MCSS, we sit on the Passport initiative committee, and so much more. We're not the parent who couldn't come here today.

This type of a forum is very intimidating, even for those of us who sit on like committees. The average parent today is at home caring for their child and could not come because they don't have supports, so they can't even leave the house if they want to. The average parent today could be the single parent who has to work today because they're the only income in the household for their children. The average parent today is the one that's disconnected and doesn't even have any services, doesn't know where to look, where to go, doesn't even know about Bill 77, and doesn't know the impact in the decision that you people will make for their future. These are the average parents in Ontario. I believe that throughout this process and when you people deliberate over Bill 77, this has to be remembered—who we're really represent-

ing—and remember those of us who work very hard to assist all of you through our time of volunteering.

Bill 77 is very complex. There are many areas to address. I will address only a bit of the portion of the written paper that I presented to you today, due to time restraints. The issues that I would like to focus on are person-directed planning; application centres; mobile satellite offices; waiting lists; the appeal process; and a mandatory agreement between all three ministries: MCSS, Ministry of Health and Ministry of Education.

Our recommendations for person-centred planning are that person-centred planning be included in Bill 77; MCSS funds person-centred planning for families; person-centred planning is completed before the assessment is done. This has been stated before very clearly.

Planning facilitators must be independent from all agencies and application centres, and be non-affiliated whatsoever. This will allow for true planning to begin without anyone wanting to have services provided in one area more than another. Facilitators must provide continued support afterwards to ensure the success of all the choices and the plan that is put into place.

1110

Our reason for this is because, for many families and individuals, they have never had the opportunity to even think about developing a person-centred plan for their loved one or to have their loved one involved. Many of them have never been able to dream, to have a vision or to make the best possible choice for the better quality of life within the community for their loved one.

In the past, their child has had to fit into existing services and programs. Any family who dared to challenge the system and request direct funding before Passport even came about was considered radical and unrealistic. Families and individuals must be given the opportunity to go through the process of developing a person-centred plan, and only then can they truly envision the rights that are necessary.

Some families are going to need more guidance, and that may be because of intimidation or a lack of experience, education or literacy skills. A non-affiliated planner is, again, necessary so there is a non-biased opinion. If MCSS really wants to make a change, they have to give those involved the information necessary, allow independent planning to take place and provide the continual support by the independent planners so as to ensure the success of the choices that the family and individual have made.

Our recommendations regarding application centres are that application centres be responsible for the procedures of determining eligibility, the assessment, monitoring and administering direct funding to or for the benefit of persons with developmental disabilities; that the collaborative access process with the composition of all stakeholders, including parents, be responsible for the functions of determining the methods of prioritizing persons for whom a service profile has been developed; that necessary transportation funding is included in the budget; and that mandatory education is necessary for all appointed regional staff of all supports and services.

Our reasoning is that families become fearful and hesitant when the same agency they are filling out the assessment tool with will also be responsible for prioritization and the allocation process. Families will not share all that is needed in order to have a true assessment take place. Families will not view the centre and the staff as trusted partners within their child's team.

All too often in the rural regions, we experience the fact that because the office isn't in our area, when we call, they don't even know where Dundas county is, even though they're serving the area. They don't know what agencies provide support. We are left with unanswered questions.

We need staff to come to us in the rural areas. They need to come into our homes, and often this is an issue because families work, and it can't be from 9 to 4. They may have to come in the evening. They may have to work on Saturdays. This is very important so that you can get to all the families across Ontario.

Our recommendation is for a mobile satellite office, which I would like to say is probably their car, where they will be travelling most of the time. Staff needs to travel, as I said, to families' homes; varied working hours, as stated. Necessary transportation funds are needed in the budget, and there has to be mandatory education of the supports and services within the appointed region for all the staff.

There are many rural families that cannot travel a great distance, even into Ottawa if you live in Dundas county. It could be because you don't have a car. It could be because the only car you have is going to work and you're at home with your child with a disability. It could also be that if you wanted to go in, your job will not allow time off with pay, so therefore you have to make a choice, and an income has to be number one for your family. Therefore, there has to be established flexible hours.

If this is done, it will demonstrate that MCSS is willing to accommodate and meet the needs of all families and their loved ones across Ontario. The allocation of funding for staff transportation may seem something that should be done and has been done—well, it hasn't.

With the Passport initiative program, there was not adequate funding given to this region. Therefore, quick, one-stop shopping had to happen with families, and they had to make quick decisions. This left the families frustrated, upset and wondering if they made the right decision in that 15-minute meeting with the agency providing Passport funding. Therefore, we have already seen that when funding for transportation is not included, then there isn't the liberty even of having to have a second visit with the family to make sure that the right decision was made and the funds were used most appropriately for the person with a developmental disability.

Our recommendation for waiting lists is that waiting lists be removed from the draft form of Bill 77. Our reasoning is that there is a concern that including the identified waiting lists within the legislation acknow-

ledges that there will be continually inadequate funds available to address the needs of individuals with a developmental disability, once there has been planning set forth. The focus should be shifted to address the issue of lack of funding of supports and services, rather than to concede the establishment of waiting lists.

Our recommendation for the appeal process is that the application centres and collaborative access process should have no involvement in the appeal process; it has to be third party. This is so that families can feel that they're getting a fair and equitable appeal process, non-biased and non-complicated. It is a huge decision to decide to appeal, something the government has said, and therefore we need to know that we can do this safely and knowing that it will all be fair.

A part that I would like to discuss very quickly is an agreement between the Ministry of Education, MCSS and the Ministry of Health. It is because when children are in a school system, usually these three ministries are involved in some way in school and at home. When a child is transitioning from the school setting to home once more, there needs to be some sort of transition plan, and at this time it is not happening in any way across this province. Therefore, there has to be some sort of agreement between these three ministries. This would be the first step of person-centred planning: the transition plan from high school out into the adult world. If we had this, it would make an incredible difference in the way the adult sector would be prepared for our children.

In conclusion, Bill 77 is the foundation for the future of supports that will be available to our adult children with a developmental disability. Bill 77 will not only have an impact on our children's lives, but on our lives as parents and our entire family. Having a child with special needs affects the entire family unit. If mom and dad are in crisis caring for a child with special needs, the entire family is in crisis, and believe me, this is true; it has happened to my own family quite a few times.

Today, across Ontario, there are families in crisis. I would like to share one situation that's very close to my heart. This could have been my own story two years ago. We have a mom who has her master's degree. They have a daughter who's 22 with Rett syndrome. Their older children have left home and are on to their own jobs and their own life plans. Mom cannot seek employment because she's at home full-time with her daughter.

Her daughter has graduated high school. Their daughter was fully included in the high school setting, even with her high needs. She was continually challenged in school; she had proper supports in place; she was developing new skills; she felt self-worth; she had self-esteem. Mom, today, is at home 24/7, caring for every need for her daughter. Therapy has to be done every day, or her daughter will regress. They have to keep up all of her skills. She has to take care of all of her personal care needs. She has to take care of all of her medical needs. There is no help coming into this house.

Dad has to work seven days a week because mom can't, so dad cannot be much support to mom. This

family is in crisis. They've applied for funding. They've been told they are going to be on a waiting list; they're told it will be over a year. They are informed, very educated, very smart, very put-together parents, and they are in crisis. They feel extremely alone. They feel that this government has abandoned them, that their daughter and their family have no value in this government's eyes, and they feel that they are victims of this system today.

There are many more families across the province and in our own region who are in the same situation. Please remember these families as you move forward after this day. Take a moment, if you can, and try to think of yourself: What would I want for my own child if they had a developmental disability? What would I want for my grandchild? What would you want in place? What processes do you want in place, so that you're able to address issues when they come forward?

In the end, we are going to live with the end results—we, the parents, and our children, and our other children. We know the importance of the legislation, Bill 77, and how it will affect our families—

The Vice-Chair (Mr. Vic Dhillon): Could you just wrap up? You have 10 seconds left.

Ms. Terry Boyd: Thank you very much for the opportunity.

The Vice-Chair (Mr. Vic Dhillon): Thank you. There will be no time for questions.

1120

ONTARIO AGENCIES SUPPORTING INDIVIDUALS WITH SPECIAL NEEDS

The Vice-Chair (Mr. Vic Dhillon): Next is OASIS Ottawa.

The Acting Chair (Mr. Dave Levac): Thank you very much for being here. For the record, please name yourselves and the organization you represent. You have 15 minutes. Within the 15 minutes, if there's time left over, we'll have questions and answers at the very end. You may begin.

Mr. George Braithwaite: My name is George Braithwaite. I'm a former president of OASIS. OASIS is a provincial organization whose mission is to facilitate the sharing of ideas, resources, systems and information. OASIS will liaise with government on behalf of member organizations with the goal of improving the development of cost-effective, quality supports for individuals with developmental disabilities.

I am joined this morning by Jocelyne Paul, on my right, the executive director of Ottawa-Carleton Lifeskills, and Bonnie Dinning, on my left, a serving member on the OASIS board of directors. Both Bonnie and I are parents of adult sons with an intellectual disability.

We are supportive of the decision to create this legislation and are particularly encouraged by the removal of any reference to the institutional structure.

Our overall reaction to the proposed legislation is positive, and specifically, we note the following attributes:

It contains common eligibility standards that will be applied consistently across the province;

It contains the clear intention to utilize a common assessment tool:

The bill brings fairness and consistency in the assessment of eligibility for service and a predictable rationale for the level of service to be provided. This means that people with similar needs can expect similar levels of service and support. The bill contains language which connects the assessed needs of the individual with a funding mechanism yet to be developed.

It is also important to note that the bill contains language which appears to acknowledge that resources are expected to be limited and are unlikely to meet the forecasted demand.

It's beneficial that the bill will require the establishment of systematic waiting lists across Ontario using common criteria. That will permit the following:

—the compilation of credible data which indicates the unmet demand for service across the province;

—the accurate calculation of the fiscal implications of that unmet demand. It will enable greater transparency in matching available resources with a standardized policy for, if I may say, rationing those resources, or, in other words, setting priorities;

—the Ministry of Community and Social Services to have greatly improved ability to forecast its budgetary requirements from these improvements in data collection and consequent to other provisions in this bill, which should enable the ministry to demonstrate value for money

This bill, by the very nature of this type of legislation, must contemplate the most extreme and difficult circumstances and address how they will best be managed. This results in some parts of this bill sounding particularly punitive and focused on enforcement and punishment. This could be balanced by the inclusion of a preamble for the bill with value statements, moral guidance, spirit of intentions, scope and purpose etc. Not only would that assist in guiding in the development of regulations, it would clearly communicate the very purpose of the act and the vision for the social change that is taking place in this sector.

On the topic of development of regulations and policy directives, we have been very appreciative of the inclusive consultation that has occurred around the development of the transformation paper and that associated activity. We know that all provincial organizations are committed to working as partners with the ministry in developing the next phases of this process, including the regulations, policy directives and policy guidelines. What follows is expected to be an evolutionary experience and one which will give substance to transformation.

We believe the ministry would be well served in considering a greatly expanded use of modern media to advise stakeholders of impending regulatory and policy change. One quite successful approach is the one used by the Ministry of the Environment when they posted information for feedback for a specified time period on the Internet. The Environmental Bill of Rights, or EBR, as it is more popularly known, is one such model. Stakeholders at all levels within this sector should be more fully involved, and at an earlier stage than is possible at present.

Ms. Bonnie Dinning: Good morning. My name is Bonnie Dinning. I wish to speak to you on three topics: partnerships between ministries and with other government organizations, role and governance of agencies, and liabilities.

In regard to partnerships, the divided responsibility between ministries based on age and self-care capacity segments services for children, youth, adults and seniors with developmental disabilities and other complex needs. The current approach requires people to enter a new system, with new assessments and new plans, at every transition point. What is lost in this approach is the great value of proactive transitional planning that can and should happen to ensure that those with a developmental disability experience seamless transitioning throughout their life stages.

In regard to the role and governance of agencies, of particular concern to us are issues related to the role and governance of the agencies, as outlined in sections 22 to 25 and sections 30 and 31. These allow for board composition requirements and service agency takeovers.

The current draft of the legislation does not seem to recognize the significant role and benefit of volunteers to this sector and the broader scope of work undertaken by service agencies outside the parameters of the ministry contract. The history and foundation of the developmental services sector is local community and volunteer support.

Service agencies have developed in response to local need over time, often providing much more than that designated in ministry funding contracts noted in section 23. Contractual arrangements and liaisons with a wide range of community partners, often fostered by volunteers to address unique needs in the community, are the mainstay of their business. Agencies rely on volunteers for many things, including a willingness to take on the responsibility of boards of directors. Out of necessity, the makeup of such boards reflects the unique needs and resources of the community that particular agency serves. Too prescribed a formula for board composition imposed under section 22 could be detrimental to the efforts of local communities in meeting the needs of disabled citizens. A more appropriate focus within the legislation could be the role of a board of directors and guidelines for board composition to undertake such a role.

In sections 30 and 31, the powers to assign a manager to take over the affairs of the service agency are of particular concern because agencies can hold a wide range of contracts with a variety of stakeholders other than the ministry. Beyond the legal implications of such a situation for the ministry, the possible liabilities for volunteer directors outlined in the legislation will do much to lessen the enthusiasm of individuals considering such a role. It is also unclear why the focus of takeovers is

service agencies in isolation of the proposed application centres.

In regard to liabilities, a major concern is paragraph (c) of section 35(1), in which a person could be found guilty following a failure to comply with reporting requirements or quality assurance standards even if the failure is unintentional. This might mean that a member of the board of directors could be held individually responsible for this transgression. OASIS has obtained a legal opinion expressing concern that directors' liability insurance may not cover this particular situation.

1130

As a volunteer director of an Ottawa service agency and as a parent of a developmentally disabled son, I am very concerned about the issue of liability. Will I be putting the financial security of my son at risk if I continue in this role? What implications does this have for a sector that, as a whole, depends on volunteer involvement? Regardless of what directly funded plans families put in place, the majority will ultimately require the assistance of agencies when they are no longer able to manage those plans. This legislation needs to ensure strong service agencies are the backbone of a developmental services system.

Ms. Jocelyne Paul: Good morning. My name is Jocelyne Paul and I have four issues I'd like to highlight.

The relationships between various service providers and the need for common standards: The legislation is not entirely clear regarding the relationships between the various components of the systems, such as special services at home or between the service agencies, the application centres or third party brokers. We have heard what others have said regarding the application centres. We agree that it should be a process, a series of activities, rather than a specific centre or location.

The legislation appears to apply different standards and a higher level of accountability for service agencies versus other types of services or service providers. It also appears that there are different mechanisms that would apply. This is of great concern in the Ottawa area where there are a number of service agencies as well as forprofit agencies. We are supportive of the existence of clear standards for quality of care and believe that the same set of standards should be used for everyone who is providing services. This will only benefit the people we support, ensuring their—

The Acting Chair (Mr. Dave Levac): Three minutes.

Ms. Jocelyne Paul: —care, welfare, safety and security.

The second area I would like to speak to is funding. We are supportive of the expanded definition of eligibility, but we have three major concerns. There will be additional demands placed on the system and waiting lists will grow. Ongoing additional funding will be required to provide these services. Another concern is that funding will be diverted from direct services to cover the administrative costs, and the legislation is not clear about the provisions for people who are currently receiving services. Individuals will be grandparented for

services, but it does not necessarily speak to their access, priority or level of service. Families within the current facility closures have been guaranteed by the government that their loved ones would continue to be served.

Regardless, at the heart of the matter, this legislation is about the people we support and the quality of services that they're able to access; it is critical. Within this framework or any other framework within the legislation, it is dependent upon government providing enhanced funding on an ongoing basis to provide the support that is required.

Another topic is legal capacity, which I will leave you to read within the brief.

The last topic I would like to speak to is the essential services. In the summer of 2007, there were several labour disputes in southern Ontario. In 1996, this occurred in Ottawa with a number of service agencies. Homes were picketed, relationships were damaged, trusts were broken and neighbourhoods were disrupted. This was a very difficult time for both the people we support as well as the staff involved. Given the nature and vulnerability of many of the people we support, we believe that this would be a great opportunity to state that this is a no-strike sector with provisions noted in the legislation on alternative methods to deal with labour disputes.

Mr. George Braithwaite: My final topic is reviews and appeals. The act includes some internal notification of review processes which really involve—

The Vice-Chair (Mr. Vic Dhillon): If you can just wrap up, sir.

Mr. George Braithwaite: —self-judgment, whereby the organization making the original decision is also hearing the appeal. I know that the regulatory process will iron out some of that impression and perhaps remove it completely, but at the moment, that's the impression one is left with.

The Vice-Chair (Mr. Vic Dhillon): Thank you very

Mr. George Braithwaite: I have one other point, if I may.

The Vice-Chair (Mr. Vic Dhillon): Very quickly.

Mr. George Braithwaite: In other cases, appeals may have to go the judicial route, which can be very lengthy, costly and virtually inaccessible. The provision of a third party appeal mechanism for the various stages of decision-making that may occur within the system would be more equitable, transparent and fair and, if I may close on the note, remove any perception of bias—perception often having taken on the appearance of truth rather than suggestion.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We've got a full day, so we want to try to stay on track.

LIVEWORKPLAY INC.

The Vice-Chair (Mr. Vic Dhillon): LiveWorkPlay Inc.—welcome to the committee. Please state your name before you begin.

Ms. Jennifer Harris: My name is Jennifer Harris. I am a volunteer and self-advocacy spokesperson, and I would like to introduce the LiveWorkPlay co-founders, Julie Kingstone to my left, and Keenan Wellar to my right. Thank you very much.

I would like to thank the standing committee for this opportunity. My name is Jennifer Harris. I am, among other things, a person with an intellectual disability, living and working here in the Ottawa community. I have also been involved with the LiveWorkPlay charitable organization for the past decade, which is most of my adult life. I continue to receive support from the organization in my daily life, but in recent years I have also been contributing to LiveWorkPlay as a volunteer and self-advocacy spokesperson, and as a voting member of the corporation. If you had told me 10 years ago that I would be making the type of presentation that I am making right now, I would never have believed it. I have with me here the organization's co-founders, Julie Kingstone and Keenan Wellar. They helped me prepare this presentation and, should I require it, they will be assisting

I would like to start by explaining that just as I've been evolving as a person, so too has the LiveWorkPlay organization been growing and changing. The first thing to understand about LiveWorkPlay is that, although we are a non-profit and registered charitable organization serving 60 people with intellectual disabilities and their families, we are not a transfer payment agency. We receive no direct funding from the Ministry of Community and Social Services.

Secondly, our supports are provided to individuals as young as 13 years of age. We get to know teens and their families as they make their way through high school, and work with them to have a comfortable and successful transition to adult life.

Third, our mission is self-advocacy and contributing citizenship. We are all about helping people take greater control over their own lives, and we work with both individuals and the community around us to build a more inclusive society.

I think these basic facts about the LiveWorkPlay organization are important because although we've had a lot of challenges—mainly, we've had to do a lot of fundraising—we have also had a lot of freedom to pursue what we know is right for individuals and their families.

1140

I should also mention that as of May 2008, LiveWorkPlay became an affiliate of Community Living Ontario. We are very new to that federation, but I was very impressed with the background information they provided to us about Bill 77, and that has shaped some of our comments to you today.

Next, I would like to quickly take you back to 1997. I had recently finished my time in high school. High school was a very difficult experience with some particularly painful memories, such as being excluded from learning and activities that were deemed inappropriate for me because of my disability.

After high school, I found myself even more isolated, living in my family home with few social or community connections, and an uncertain future. This is a very familiar experience for people with intellectual disabilities and their families that is sometimes described as the post-21 issue. In essence, it means we are largely abandoned by society, without opportunities for post-secondary education, and with few opportunities to live as contributing citizens.

Through happenstance I ended up at LiveWorkPlay in 1998, when the organization was getting off the ground in a big way. In the past I had been involved with organizations in the developmental services system. They had different sorts of programs that I tried that didn't work for me. This was something different.

The approach from the beginning was to get to know me as a whole person, to help me develop my own hopes and dreams, and to support me to pursue them. Instead of offering me a program, they asked me what I wanted to do out of life and said they would help me achieve it. That is, in essence, what all supports and services for people with intellectual disabilities should do. This was a lot harder than it sounds, because my self-esteem and self-confidence were extremely low, and I was very resistant to making even basic decisions on my own life. To be honest, I really didn't like it very much. The staff and volunteers kept refusing to tell me what to do.

Through LiveWorkPlay and learning about the self-advocacy movement, I came to understand that I had both the right and the responsibility to take greater control of my own life. This meant taking risks, such as participating in pilot projects related to employment and housing, through which I sometimes made progress, only to fall back later. But I kept going.

I also tried some different workplaces that didn't go well for me, and it was painful. I often thought of giving up. But I eventually got to the right place; for now, anyway. Along with several of my peers I am currently appearing as an actor in a public service announcement that is airing regularly on A-Channel television. I hope you get a chance to see it on TV, but if you don't, please visit www.liveworkplay.ca and check it out.

I'm still getting used to my new responsibilities as a self-advocate and contributing citizen, but I keep pushing forward. One of the biggest changes in my life was moving out of my family home. Thanks to my experience in housing projects and other LiveWorkPlay initiatives, my family and I decided that I would live in a real home of my own, not in an institution. I have had to push myself many times to overcome barriers to my new life in my own condo apartment, but everyone goes through this stress of making their way in the world. We should not deny people with intellectual disabilities this experience. It is better for the individual, for the family, for provincial taxpayers and for local communities to support people with intellectual disabilities to take greater control of their own lives and live with greater independence.

I won't pretend to understand all of Bill 77. I do understand that the developmental services system is

very complicated. At LiveWorkPlay, we also believe it is possible to establish simple and powerful goals for this legislation.

There are some basic positions that LiveWorkPlay would like to see emphasized in Bill 77. I understand that our largest institutions are closing, but at LiveWorkPlay we believe that the government of Ontario should consider that as a starting point. The closing of major institutions is important, but your work is not done.

Having an intellectual disability is not a criminal offence, so why should many of us be forced into shared living arrangements with strangers and have others decide what and when we'll eat, how we'll express our sexuality, what drugs we'll take, or how we'll spend our day?

Housing choices for people with intellectual disabilities should be the same as they are for most everyone else: to live in an apartment or a house that we rent or buy. If we need support, we will invite that support into our home. We will decide. Yes, we'll need help to organize and pay for the supports we need, but we can be and should be in charge of determining what those supports will be and who will provide them.

The province is currently directing enormous sums of money to institutional forms of housing, with little or no funds of any kind available to support people with intellectual disabilities to live in real homes of their own. Bill 77 should support the development of innovative non-institutional housing solutions, in addition to individualized funding for related support costs.

We must find ways to give all people with intellectual disabilities the daily living supports they need without denying the basic personal freedoms that others in our society take for granted. Bill 77 should clearly establish life in a real home as a goal to be supported for all people with intellectual disabilities.

Now, we are not suggesting that this is going to be easy. I told you my own story of how hard it was to learn to make my own choices and decisions, and the help that I received from LiveWorkPlay, my family and my support network. This brings me to our second issue of concern: decision-making and individualized funding. I love my parents and they are a valued resource, but I am fortunate in that they are not my only means of decision-making support, and that is critical. It is important right now for my own personal growth, and it is also important for the future, so that the passing of my parents will not render me helpless.

Bill 77 must recognize that people with intellectual disabilities are going to need help with the responsibilities inherent in an individualized funding model. This help must not be about deciding for us; it must be about presenting information in a way that works so we can make our own informed decisions. This is really no different from a non-disabled person getting help from a lawyer or financial adviser. But when it comes to people with intellectual disabilities, decisions are far too often made on our behalf. This is one of the main reasons why we are known as a vulnerable population and why we are

in fact victimized at rates that dramatically exceed the experience of the average citizen.

1150

People with intellectual disabilities are trained to be vulnerable by a developmental services system that teaches us to constantly submit to the authority of others. Far too often, we are denied the lead role in scripting our own lives, and that must change.

We strongly encourage the standing committee to recognize the need for this change and take steps to ensure that there is respect for the rights of people with intellectual disabilities as capable decision-makers and adequate planning and resources allocated to supported decision-making. To make this possible, Bill 77 must clearly state the right of self-determination for people with intellectual disabilities.

The Acting Chair (Mr. Vic Dhillon): Jennifer, if you want to just wrap up.

Ms. Jennifer Harris: We recommend that such a statement has a place in the first lines of the preamble of the new legislation.

People with intellectual disabilities have the right and responsibility to live as fully included members of their communities, their province and their country.

Thank you for your time. That concludes our presentation.

The Acting Chair (Mr. Vic Dhillon): Thank you very much. Great job.

PLAINFIELD COMMUNITY HOMES

The Acting Chair (Mr. Vic Dhillon): The last presenter for this morning is Plainfield Community Homes.

Mr. John Klassen: My name is John Klassen. I'm the executive director of Plainfield Community Homes. I'm here on behalf of the board of governors of Plainfield Community Homes. I'm also here as a parent; I wear a parent hat, and that hat doesn't come off any time of any day.

Thank you for receiving this response to Bill 77.

We recognize that the introduction of this proposed new legislation, following a lengthy period of consultation, is long overdue and will replace the Developmental Services Act. We are hopeful that the new legislation, once passed, will provide the legislative framework for improving services and supports for people who have a developmental disability and their families.

As described in the explanatory note introducing the proposed legislation, "The residential facilities operated by the ministry under the old act are not continued under the new act and will be closed after the old act is repealed."

Furthermore, the proposed legislation recognizes that people want more choice and control over their lives. Accordingly, "The new act provides a new framework for the provision and the funding of services to, or for the benefit of, persons with developmental disabilities."

I note also, and particularly as a parent, that direct funding now becomes an option for people with intellectual disabilities and families, and I think this is a very progressive and very necessary new step.

As well, the portability of that funding: Regardless of where you live in this province, there will be this understanding that funding can go with you as you move or as you need to move to another part of the province.

We applaud the government for these and other elements contained in the proposed legislation that are seen as a positive and progressive paradigm shift, offering people with developmental disabilities a more flexible system.

That said, Plainfield Community Homes does have some concerns about the bill.

The proposed legislation is to replace the dated Developmental Services Act, and as we now have the benefit of a fairly lengthy period of consultation, the legislation needs to reflect our understanding of full citizenship for all. It is our contention that the legislation can establish mechanisms that will manage resources, funding allotments, waiting lists and prioritization, among other matters, centred on a paid system of services. What the legislation cannot do is legislate the vast array of relationships and other quality-of-life elements that are essential when we consider full citizenship within communities. A preamble such as has been proposed by Community Living Ontario will go a long way to pointing to social change that many people are now enjoying and that we are all striving toward.

Application centres: Bill 77 proposes the establishment of application centres. These centres will have responsibility for a wide range of functions, including determining eligibility of a person to receive supports, administering an application process, assessing needs, setting priorities, allocating and distributing funds, making referrals to agencies, monitoring the satisfaction of a person with the outcomes that result from the supports they receive etc.

We question the need to establish these new centres that will have governance and administrative structures and be funded to carry on the work that is currently conducted by existing agencies and processes. A number of communities in Ontario have developed collaborative access mechanisms whereby agencies work cooperatively to process requests for service and fulfill those functions called for under the new application system. The counties of Hastings and Prince Edward, for instance, have developed such a model and subsequently put in place a pressures and priorities committee, as well as a case resolution mechanism that has been operating for a number of years. This low-cost, collaborative model has been very effective in responding to and addressing critical and emerging needs of many individuals and their families.

As this proposed legislation is being reviewed, we urge the government to consider the merits of a collaborative model as the preferred approach for ensuring that individuals and families have equitable and fair access to services and resources in communities. We believe there

is now sufficient evidence to support the proposition that a collaborative model is superior to a stand-alone, costly new agency because the collaborative model has been built upon and continues to demonstrate the following features:

It is low-cost, with very few dollars wasted on administrative support. The member agencies willingly give their time and expertise to this collaborative model;

Individuals and families can go to any one of the member agencies and know that the agency will plan with them and present their needs before the pressures and priorities committee. The agency continues to be their contact and will represent them through the process to a satisfactory resolution;

The member agencies know the individuals and families and have a relationship with them that has developed over time. This relationship engenders trust—in some cases it hasn't, we recognize, but it can, and we know that it does in Hastings and Prince Edward—in the agency and a proactive and empathic response from the agency to a satisfactory resolution;

This collaborative access model garners the support, involvement and co-operation of each of the member agencies. The member agencies are more likely to share their resources and work together to a common good, so as to respond to individuals and families known to them. The member agencies are committed to this process, to the families and to each other;

A collaborative access model relies less on bureaucratic single-access portals—faceless portals, if you like—and more on the strengths and capacity of communities and grassroots voluntarism. Local associations and agencies are infused with the rich fabric of contributing and supportive community members and their natural connection to the array of community resources, not to mention their cultural, linguistic and associational diversity.

We believe that the introduction of application centres is retrogressive and short-sighted. It reminds us of a health model, frankly. It is certain to cost more and garner less agency co-operation in meeting the needs of people in our communities. We have a model that works and it will be a shame if we create a bureaucratic layer that will do what is already done very well.

I will refer to another section called "Waiting Lists." As an associate member of Community Living Ontario, we endorse and underscore their position on this, so I won't elaborate on the points that they have made for the sake of time. Suffice to say that if this is enshrined in legislation, waiting lists are legitimized, and people need to stand in line to receive a service they may desperately need.

Assessments to determine applicants' need for services: Section 18(3) states that an application centre shall use "the method of assessment specified in a policy directive, conduct an assessment of the person's needs for services under this act; and ... apply the method of resource allocation specified in a policy directive to

determine which services may be provided to the person under this act and the amount of funding available under this act for those services." While the proposed legislation is silent on the type of assessments to be conducted for determining the person's need for services, we understand that policies and regulations will require the administration of a supports intensity scale as the prescribed assessment tool that will determine the person's need for services and funding available for this service.

We have long understood that each person with a developmental disability is very unique, and over a lifetime their strengths and needs are ever-changing. Furthermore, people enjoy many relationships with friends, acquaintances, neighbours, family members and paid staff. I can, by example, refer you to my son, who is known by most of our neighbours. He has become a person who is significant to them, a person who is a neighbour and who is a friend. It is for these reasons that Plainfield Community Homes and many other organizations have adopted a person-centred planning approach. Person-centred or person-directed planning is a process of learning how a person wants to live and then describing what needs to be done to help the person move toward that life. It is our belief that a personcentred planning process, when facilitated by trained planning facilitators, will take into consideration the whole person and all of the other factors that impact on the person's life: the effects of the disability, the views of those who care about and know the person, and the opportunities as well as the limitations presented by the need for funding and for paid services. A standard assessment tool, in our belief, will not enable a deeper discovery of the person and what's important to and for the person.

It is for all of these reasons that we would recommend that the proposed legislation recognize person-centred or person-directed planning as a funded service and that it be a methodology for determining a person's support needs and funding. If government is concerned that there is currently wide variation throughout the province on determining a person's support needs, a standard province-wide approach to person-directed planning and the funding of trained planning facilitators will ensure accountability for the appropriate use of public funds, as well as the assurances that we do not look only at a system of paid supports.

One final section that we want to emphasize in our address is that, in fact, a number of the sections in the proposed legislation are still left to be further defined with the development of policy directives, guidelines and regulations. We urge government to introduce a consultative process with Community Living Ontario, OASIS, the Great Lakes Society and other members of the Provincial Network prior to their adoption.

We do have other concerns with Bill 77, such as part VII, which addresses the rights of an inspector to enter a residence without a warrant. Frankly, I personally take great umbrage with this. I think of my son and somebody having access to his room, his property and his home

because an inspector decides that that will be so, and without a warrant. While we understand that the government would see this as an unlikely scenario, only used when a person's care and well-being are under question, we have long recognized that all people have full citizenship rights, and an inspection by an inspector of their private home is a fundamental violation of their citizenship rights. Community Living Ontario, OASIS and other members of the Provincial Network have articulated this point in their submissions, and we wish to underscore their concern.

Thank you for receiving my response.

The Vice-Chair (Mr. Vic Dhillon): Thank you. A minute each side; we'll begin with the government side. Mr. Levac.

Mr. Dave Levac: Thank you very much for your presentation. On that last point, there's another thought that's going through my mind. While I completely and totally agree with the citizenship component of the concerns about warrantless entry, from the perspective of warrantless entry, it already exists in many circumstances—for CAS, animal welfare—when there's a suspicion. But it's not in a personal dwelling, so I appreciate that. So the identification that you're making is specific to the dwelling, the personal dwelling place as opposed to the institutional component, and that warrantless entry is permissible with permission. If permission is granted to assist in keeping the person safe, than that would be approvable by your organization? That's an area in which a warrantless entry would be acceptable, if the person permitted them to come in, wanted them to come in?

Mr. John Klassen: We are referring to adults. That the legislation covers adults only is my understanding, adults who have full citizenship rights. We would consider where they live to be their home, so we don't see any room for a warrantless search on what we would consider a person's private property and their private home. It would be similar to having access to your home.

Mr. Dave Levac: Yes-

Mr. John Klassen: We make the contention that they receive funded support, but nonetheless, this is their home and their private domain.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Ms. Jones.

Ms. Sylvia Jones: Thank you. Excellent brief. I'm really pleased that we're hearing from across the sector the concerns with the application centres and how they are currently being proposed, so I appreciate you highlighting that.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Mr. Prue.

Mr. Michael Prue: I want to commend you for the whole thing, but let's get back to the warrant. I only have one minute. A warrant can be issued by a number of people, usually a judge or a justice of the peace, but it can be issued under some legislation by someone of senior command. Would that be sufficient? First of all, I find the whole idea almost repulsive like you do, but I can understand there may be some cause, where there is cause shown that a warrant be issued.

Mr. John Klassen: My thought would be that the intent here is right in that there may be concern about someone who is vulnerable, and there may be a thought that the paid system is not in a position to ensure their well-being. If that is the reason or the intent here for this proposed legislation, I would question very much why, or if, there are not people in that person's life who would have an interest sufficient to ensure their well-being, even in a paid system. I simply can't in my heart, in thinking of my son, justify entry into a person's private domain without a warrant, but that form of warrant may well be sufficient. I'm not sure. I couldn't speak to that.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We'll now break for lunch and convene back in this room at 12:45 p.m.

The committee recessed from 1208 to 1247.

LINDA KINSELLA

The Vice-Chair (Mr. Vic Dhillon): Good afternoon. We're going to resume hearings on Bill 77. Our first presenter is Ms. Linda Kinsella. Good afternoon, Ms. Kinsella.

Ms. Linda Kinsella: Good afternoon.

The Vice-Chair (Mr. Vic Dhillon): You may begin.

Ms. Linda Kinsella: Good afternoon, members. Thank you for the opportunity to speak. I decided to speak because of my experience. Ever since I've been a teenager, I've worked with people with disabilities. For four years, I worked for a non-profit organization in a group home for developmentally disabled adults. I'd like to speak, coming from this experience.

I worked for an organization that had very high standards. The care of the people in its care was very high, yet there were still problems. I think the changes being made in the act are good, but I'm concerned maybe about the regulations. How do I put this? What I'm concerned about is that some group homes in particular don't have the high standards. I'm worried about the oversight.

I work for an organization—and I will name it; it's called Christian Horizons-which most of you, I'm sure, are familiar with. They ensure that their people are well taken care of and that the homes are maintained. But in my work since my early twenties, for the last 15 or 16 years, I've worked as an advocate for people with disabilities and have written policy on issues dealing with disabilities. In this work, I've seen homes that are not properly maintained, clients who are not well-treated, and have heard stories of people being abused and, in fact, dying in group homes.

While in this act there is the authority for inspection and regulation, I really want to say that I hope it's strong, that I hope the money to have the inspectors and have the people actually go into the homes and watch what's going on is there, because while many of the organizations that run these homes do a very good job, there are some unscrupulous organizations out there that are mainly doing it for profit and not really ensuring that their people are being taken care of properly.

These people don't have a voice in the same way. Because of their disability, they have a hard time advocating for themselves often. As you saw earlier, some do, but in most of the cases they don't. This is a concern that I have.

Another concern that I have is that while I really like the idea of host family residences where a family can take somebody in and get remunerated-I think that's a really good idea. But one of my concerns is: What oversight is there to make sure that these people are qualified, that they have the skills and background to take care and that they know what they're getting into? I would like to see something that says there's going to be training or some follow-up to make sure the people in these homes are being properly taken care of. While I think the host family idea is a very good idea—it's important to have people with disabilities in the community and in family settings—I have seen and I can see it happening in the future: people seeing it as a way of making money and not really caring about how the people are being taken care of.

As I'm repeating, my concern is that the level of care is low, that there's oversight to make sure that these people who don't have a voice or have less of a voice in our societies than they should are being taken care of. I lived in a small community called Port Hope and I've also done some work in places like Bancroft and those kinds of areas where there's not the staff—it's not like a city where there's lots of people to make sure that everything's being done. Sometimes these people are living in homes that are in the woods or off the beaten track, and there's not oversight.

This is something that would have to be done through regulation. I worked in the group homes in the late eighties and early nineties where there was a lot of oversight. But, as political and economic changes happened in the province, the money for the inspectors and for oversight was taken away, and there were problems. I'm concerned that while these changes that are being made in the act are good and that there is the provision for the oversight, that there is the follow-through and that assurance that people with disabilities are being protected.

So while I see it's in the act—and having read it—that the minister has all the powers to inspect and review these things, I'd like to make sure that it happens. I don't like watching W5 and seeing the stories of children and adults in group homes dying. Along that vein, myself and friends who have worked for good organizations often hear of the things going on in other organizations or have worked for them, and I would like to see some sort of mechanism for whistle-blowers, that if people have worked in these homes and know that things are going on-means for them to report it. I know of someone who was working in a home where the conditions were not what they should be, and she felt like there was nowhere to report it, and when she did try to report it, she was hushed up and told, "Oh, we don't talk about that." I'm concerned that there be a way for a reporting mechanism.

Around the area of funding and direct funding, I see that in the act there is the idea of direct funding, and

that's good, and remuneration for host families. I'm going to say something that may sound like a radical idea, but what about paying the families—why is it just host families? If a person with a developmental disability is being taken care of by a family member—and I know this is something in society that we don't think that families should be paid for taking care of, but it's the same as the idea that a mother, a woman staying home with her children, should get some money. Similarly, if you're taking care of an adult child with a developmental disability in your home, you should be able to get some remuneration. It does cost extra money. And yes, I realize that we do it out of love and that people—I have a cousin who is being taken care of at home by her brother. He does not get any remuneration.

Oftentimes it may be that there are resources, but why don't we give family members the actual remuneration? It's there for host families, there's money for group homes, but there's nothing for the actual parents to get some extra money there, other than the dependant's ODSP. So I would like to see that maybe we add something. Yes, I realize that it's a radical idea, but why not? Why aren't we giving some of that extra money to help families?

Families often give their children up to group homes or other situations because they don't feel they can afford to keep them in the home, or that they have the skills. I'd like to see both money being given to families to help them keep them in the family setting as well as more training.

I'm going to go back to the group home issue. While I worked for a very good organization, I was an 18-year-old who happened to know the director through church, given a job because I'd done a lot of work in the daycare, but I had no training. I did get training by the organization afterwards, but I think it would be good—I hate saying, "Just have education," but some sort of training—that there should be some expectation that the people who are working with these people with developmental disabilities are being given the training and have the skills that they really need, because that's a concern. I've seen some people who are good when they don't have training, but some people aren't able to do the work.

I looked at the definition that is in the act—this is the last issue that I will speak to. The definition is that the person must have this disability prior to age 18. In both working in the group home and through family, I know of cases where, for various reasons, they've developed developmental disabilities after age 18, either through accidents or trauma. My concern with it not being covered under this act is: Where is it being covered? Are these people being forced into long-term-care facilities at age 25, as I have seen happen, because they are not able to get in group homes? I would like to see that definition changed so that it covers not just people who have the developmental disability prior to age 18.

Those are all my comments. Thank you.

1300

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We'll start with the PC side; about a minute each.

Ms. Sylvia Jones: Thank you, Ms. Kinsella. You've raised some interesting points and it's not so radical. There are examples in Europe where families are paid to—

Ms. Linda Kinsella: There are a lot of things that are

done in Europe that are considered radical.

Ms. Sylvia Jones: Point taken. I think what I'm hearing from you is that you see the need for consistency from the family, the individuals and the service providers.

Ms. Linda Kinsella: Yes.

Ms. Sylvia Jones: You want to see that consistency across the board. I don't think there's anybody who would argue with the validity of that point. Thank you very much.

Ms. Linda Kinsella: Except that it's not happening

now.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Mr. Prue?

Mr. Michael Prue: The point that you made about training, I think, is particularly germane. Many of the deputants who have been speaking to us are worried that if we go into a choice system, where you can pay for your own care versus relying on the service sector, the level of care, when you pay for it, may not be as great, that the people may not have the same training. You've given your own experiences. Is that your experience, that people who get into this sector often have little or no training?

Ms. Linda Kinsella: Yes, and I've seen both. Often, people get into it because they've been teachers or they've worked in other similar fields, and they don't know what they're getting into. Some of them are very good, but some are not. I think of somebody I know quite well, who would be considered a host family and was taking care of somebody. She was a teacher and worked with people, but I would probably say that is an exception. Even myself—I was 18 years old—I was overwhelmed. If I even had a week or a couple of weekends where I was more exposed to what was going to be expected of me, it would have been better.

I hesitate to say that you need to have a DSW or you have to have a specific education level, but just some

requirement of a certain level of training.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Mr. Ramal?

Mr. Khalil Ramal: Thank you very much for your presentation. Definitely, you brought a different perspective and, as Ms. Jones and many other people mentioned before, it's about family members receiving some support while they look after their loved ones.

You brought up the very important issue of abuse in many different organizations and homes. I did the same job that you're doing right now. I worked with organizations and institutions, and also group homes, and sometimes, in a group home, you work alone. There is nobody with you and nobody's monitoring you. You can do whatever you want. So we think, as we propose in this bill, inspection without notice or warrant is very important in order to protect the vulnerable people among us.

What do you have to say to the many organizations that came—you probably heard them this morning. They consider inspection without notice an invasion of privacy. What do you think?

Ms. Linda Kinsella: Actually, I hadn't thought of that, but it is a valid point. I'll go back to my own experience. A lot of the time, I worked alone, if I was night staff. I worked 11 a.m. till 7 p.m. To be honest, I understand the issue of invasion of privacy, but it might have been good if someone had knocked on my door and said that I had to—as long as there's some evidence of who they were and that, because especially at nighttime, that's the time when abuse can happen. I'm not expecting that it's likely to happen because most people don't work those hours.

The Vice-Chair (Mr. Vic Dhillon): Thank you, Ms. Kinsella. Time's up.

Ms. Linda Kinsella: Oh, I was answering his question.

The Vice-Chair (Mr. Vic Dhillon): We're on a tight schedule and I must move on.

Ms. Linda Kinsella: Thank you.

The Vice-Chair (Mr. Vic Dhillon): You can make a written submission as well, by August 12 at 5 p.m., if you have anything further to add.

DIANE ROCHON

The Vice-Chair (Mr. Vic Dhillon): Next, Diane Rochon. Good afternoon. You have 15 minutes.

Ms. Diane Rochon: Good afternoon. Thank you for having me here. I'm a person with a disability. I've been on disability for many years, since, I think, after my divorce, because I couldn't work at the time and I ran out of money.

About Bill 77, I'm just wondering if people like me who are self-sufficient—I have an apartment, a doctor and a schedule of things I do for my health, and I don't see myself in that bill at all, and that worries me. I have a blank right now; I'm just nervous, I guess.

I try really hard to get better and it's very hard when the system is not behind you. It's a system right now where you are discouraged to do anything to improve yourself. You're not allowed to do anything. I go to the pool. I'd like to have the gym. My doctor and I will discuss all that, and instead of having to give me more pills it's best for me to do exercise. We separate the brain and the body, but they work together. We cannot separate them. If I am not well mentally, I'm going to go down physically as well. So I do the pool with some subvention from the city, but I cannot have the gym, and good nutrition is as important, because I don't have enough money right now. I'm just struggling because I'm at the point where the pool is not enough for me. There was a time where just doing the pool was really hard, but now I've reached the point where I need to do more physical activity. I started to work in a gallery to make hats; I'm an artist. I just need more money to-I don't care the way it's being done. It doesn't necessarily have to be the money; it could be credit or something that allows me to go to the gym. I have to buy the bathing suit, the shoes and all that stuff that goes with it, and I can't right now. I want to be part of society, and having to struggle through a system that closes the door when you suffer depression is not good. I just get down and down because every time I try something, the door gets closed on me. I could say a lot, but right now I'm too stressed. I'm sorry.

This issue about people like me trying to do it on their own—there are good organizations. I have a good doctor, I had a good psychiatrist, and they were helping me because they put the effort on me. They believed in me and that's what I need from the system. I need a system that believes in people, that believes in me, that says, "Okay, you're going to do it; we're going to help you. We're going to give you this if that's what you need to get better."

I'm not talking about tobacco. I'm not talking about drugs. I don't take those things. I don't want money to go and do a party; I want the money to do the right thing for my health. That's it.

The Vice-Chair (Mr. Vic Dhillon): Mr. Prue.

Mr. Michael Prue: When you walked in the door I asked you—you said that you had been to see your own MPP, Madeleine Meilleur. Was she able to provide any assistance or help for you?

Ms. Diane Rochon: Actually, she told me about this meeting here and she told me to write a letter, to write down what I said to her on the phone and send a copy of it and she'll see what she can do. She has to go and talk, I guess, in Toronto to see if they can do something, because I need the money now; I'm struggling right now.

Mr. Michael Prue: Okay, and I take it you're on Ontarians with disabilities, ODSP?

Ms. Diane Rochon: Yes, but ODSP doesn't do prevention. The health system does not do prevention, and there is a lot of illness, even mental illness, that could be prevented. I know in my case, I was on so many drugs I couldn't think straight. I couldn't understand what was going on. I had lots of problems in my environment. I remember one time saying to a psychiatrist, "I don't want pills,"—I was so upset—"What I want is a good high mountain with trees, to walk on it." I know it sounds funny, but I come from the Laurentians where there are mountains, and I miss them so much. Sorry.

Mr. Michael Prue: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Mr. Ramal?

Mr. Khalil Ramal: Thank you very much for your presentation. This bill basically focuses on families and mothers and fathers to get support for their loved ones who are labelled as intellectually disabled, so I'm not sure if your circumstances fit this criteria.

Ms. Diane Rochon: My kids are old enough now. They're 26 and 23. My ex-husband, after abusing me, abused me in the divorce. The system abused me because they were not there for me. He got everything—the kids.

Mr. Khalil Ramal: Okay. How are your kids functioning?

Ms. Diane Rochon: They're really well. I'm very happy about the way things turned out. They have problems and difficulties like everybody, but they have strong minds.

The Vice-Chair (Mr. Vic Dhillon): Mr. Levac?

Mr. Dave Levac: Thank you very much. We'll make sure that Madam Meilleur hears about the situation. We'll take your comments and make sure that her office is aware of them so that we can see if we can find some more assistance under ODSP.

Ms. Diane Rochon: Thank you. There are many women. I go to centres for women, and those women are afraid to talk. There are a lot like me. I'm not the only one.

Mr. Dave Levac: Thank you for having the bravery to come here. We appreciate it.

Ms. Diane Rochon: Thank you very much. Mr. Dave Levac: There's one more person.

The Vice-Chair (Mr. Vic Dhillon): Ms. Jones.

Ms. Sylvia Jones: Thank you, Ms. Rochon. I appreciate your story. I'm afraid you were right in your very first statement, when you said Bill 77 was not written for you. I don't see you in it. You're absolutely right. There are other issues that we have to grapple with as a government, but your personal story is very valuable and I appreciate you bringing it forward today.

Ms. Diane Rochon: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

KEVIN KINSELLA

The Vice-Chair (Mr. Vic Dhillon): Mr. Kevin Kinsella.

Mr. Kevin Kinsella: Good afternoon, ladies and gentlemen. Thank you very much, Mr. Chair and members of the committee, for the opportunity to present. I'm disappointed that the minister has decided not to join you at these hearings, considering they're in her riding. For a couple of reasons, I'm—

The Vice-Chair (Mr. Vic Dhillon): Mr. Kinsella, just to let you know, it is a parliamentary committee and the minister's representative, the parliamentary assistant, is here.

Mr. Kevin Kinsella: I understand, but as I said, this is her riding. However, I will say this: I'm very pleased by what you're trying to do here overall. I'm just going to point out a few holes that I see that perhaps you'll be able to fix.

For example, there's nothing in this act that governs—you talk about governing, who is ODAMR, who can be placed, but there's nothing saying that you can't place someone into a home who doesn't fit the criteria of this legislation. I know of at least one case here in Ottawa where that has happened because the Ministry of Community and Social Services has the power to just decide that this person is going to be placed here. I know of at least one case where someone with a disability similar to mine—perhaps a little more severe—was placed in a

home for community living persons and who has a smarter intellectual capacity, or a larger intellectual capacity, and is ending up acting more as staff than as a client.

One of the loopholes that you should close, when dealing with this legislation, is the ability of the ministry to just go ahead and place people into spots that may not necessarily be appropriate. This was a practice that I'm not going to blame anyone for, because it was going on long before Mr. McGuinty came into power, but it's a serious problem.

Another flaw that I do see is that you talk about families and this legislation being supportive of families, but where in the legislation—it talks about housing in the community, where they place people with host families. It talks specifically, saying that the host family won't get any extra money if it's a relative. Say that you place someone with a parent—that's one thing. But what happens if the parents die and you've got a brother or a sister who has to take over. They've got their own family. They would like to host this person, but they need a little extra help. This legislation treats them in a second-class way.

Third, and this is important to me, personally—well, there are two things. This legislation really opens up the idea of guardians and advocates being just anybody. Where is the strength governing who can be a guardian, number one? I understand it's in the guardian legislation, but who says that the people who become guardians are qualified to be guardians? So when you place someone in the community—good idea—what kind of inspection do you have for them? You obviously have an inspection for group homes-and I'm very pleased to see that-but what sort of qualifications would it take to be a guardian of someone with slightly less intellectual capacity, and how easy is it for a guardian to then, since they're doing all this stuff, take the money that is given for the care of the person and waste it? I hope you understand where I'm going with this.

I'm also somewhat concerned that this legislation does nothing, really, to control the use of unregulated care providers, even in group homes or other situations, because I've already seen problems where unregulated care providers don't have the proper training to do the jobs that they're being asked to do, or perhaps they don't have the will. But I get really worried when I see what could be very good legislation being so broad and opening itself up to a lot of people who are unqualified to care for people with some form of diminished capacity.

I think those are my major concerns with the bill, and I hope that this has been helpful. I will leave it for questions and keep this very short if I can.

The Acting Chair (Mr. Dave Levac): Thank you. We do have some time after that presentation and we'll share that with all three parties, starting with the Liberals.

Mr. Khalil Ramal: Thank you very much for your presentation.

I believe we listened to your wife or somebody related to you speaking earlier about inspection without notice, and they expanded on that regarding a private home, when the person lives with a brother, sister or a guardian, and how we can do that. It's a good point; hopefully we can take it further and see what we can do about it.

Another thing is, how do you think this bill would benefit you if it passes as it is?

Mr. Kevin Kinsella: For me, personally, of course there is no benefit because I don't have the diminished capacity aspect. But I do see it benefiting the community as a whole if it were to pass because, frankly, institutionalization does not work. It's expensive; in fact, it's a complete waste of money in a lot of cases, and it leads to abuse. Putting people out into the community means they're productive. We have some excellent associations—group homes etc.—that really do want to get people productive and in the community and working, as well as enjoying life. I don't see a down side from that point of view.

Where the down sides come in at all in this legislation is from the point of view of who's qualified to be a guardian, how much help are you going to give those families if they're related, that sort of thing.

I don't really see a major down side to the legislation. I see only positives in terms of getting people involved and in the community and getting the community into realizing that persons with disabilities of all kinds are valuable members of society.

The Acting Chair (Mr. Dave Levac): Ms. Jones.

Ms. Sylvia Jones: I wanted to get your thoughts on the application centres and whether they would improve or worsen the ability to place people in group homes.

Mr. Kevin Kinsella: I'm glad you asked. In a city, they might actually improve the situation. But certainly due to the fact that our LHINs, our local area health networks, are so huge, I would think that, overall, the situation would be much worse for people to have these application centres. I don't believe that would be a positive step, because people are going to be forced to go into a community that may be 50 or 60 miles away, instead of having persons come out to them, in a sense. I'm concerned about that.

Ms. Sylvia Jones: Right. Because as written, there would be fewer application centres than there are LHINs currently, so it's an even larger area that they're expected to cover.

Mr. Kevin Kinsella: I think that is going to make it extremely hard on staff, and I think that's a very negative and retrograde step.

The Acting Chair (Mr. Dave Levac): Mr. Prue.

Mr. Michael Prue: You raised something I hadn't really considered; that is, that we've had a lot of parents coming here today and talking about looking after their children or what happens if the parents die before the children and who's going to look after them. You suggested that what would be a normal possibility is that a person with a developmental disability would go to live with their sibling. I don't see in this legislation that the siblings would be eligible to get an allowance or a stipend any more than the parents were.

Mr. Kevin Kinsella: In fact, the legislation specifically states that a relative of any kind would not be

eligible for a stipend of this type to assist.

Mr. Michael Prue: Part of the legislation says that the person has the capacity to make that choice themselves, so if they say, "I want to live with my brother," and the brother says, "I can take him, but I can't afford it," then what the person with the developmental disability wants can't happen.

Mr. Kevin Kinsella: Yes.

Mr. Michael Prue: So I hope the parliamentary assistant heard that and heard it well.

The Acting Chair (Mr. Dave Levac): That may or may not be the fact, but I think we need to get that looked into. My understanding is that's not quite correct. We'll make sure that gets clarified.

Mr. Kevin Kinsella: Actually, there is a section in the legislation—I could dig it out and show you specifically—about relatives and how they don't get support.

The Acting Chair (Mr. Dave Levac): Mr. Kinsella, thank you very much for your presentation and coming before us today.

OTTAWA-CARLETON LIFESKILLS INC.

The Acting Chair (Mr. Dave Levac): It's now the opportunity for Ottawa-Carleton Lifeskills, OCL: Mr. David Cameron, Ms. Jocelyne Paul, Gordon McKechnie and Doug Anderson. For the record, if you could identify yourselves and the organization you represent, if you do. You have 15 minutes. If there's any time left over after the presentation inside of the 15 minutes, we will share that among all party members in an equal manner. You may begin any time you're ready. Thank you.

Mr. David Cameron: Good afternoon. My name is David Cameron. I'm the president of the board of directors of Ottawa-Carleton Lifeskills, which I'll refer to as OCL, just to be brief. Thank you to the committee for

taking the time to hear our concerns on the bill.

First of all, our number one goal at OCL is to serve and support developmentally disabled adults. We are one of the largest providers of those services in eastern Ontario, serving approximately 100 individuals.

We very much welcome the government's initiative to modernize the legislation concerning persons with developmental disabilities. As an organization, we have a 20-year history of delivering those services, starting primarily with the impetus to move persons out of their regional facilities and into the community. We continue to support that initiative.

We have a demonstrated record of working with application centres—I won't call them application centres, but with Service Coordination Ottawa. So we're somewhat familiar with the concept, but we certainly feel that there needs to be a little bit more detail in the concept, in terms of how that would actually roll out, how it would work and how we would interact with that organization.

We also recognize that the bill, as presented, really represents more of a legislative framework, and that there's a lot of work to be done yet in terms of regulations and policy directives, which concerns us a little bit in the sense that a lot of it is unknown to us as a service agency in terms of how it's going to work. We certainly encourage the government to release drafts of the regulations and the policy directives as they become available so that hopefully we can help and assist the government to provide regulations and policy directives that will work well for the sector.

I also wanted to mention that we're a member in good standing of OASIS, the Ontario Agencies Supporting Individuals with Special Needs. They presented earlier today and we are in agreement with and support the positions they provided to the committee earlier. So our comments—I'm going to keep them brief—are focused on what we think is material to us as a transfer payment agency or what will be a service agency under the new bill.

With that, I'll move to the comments that we have specific to the bill. At a summary level, we have a concern with the definitions of residential supports. I'll go into each of these points in a little bit more detail, as you'll see in the handout. We feel that additional liabilities are being imposed on volunteer boards of directors of the service agencies. We're concerned that obligations may be added to our service contract without corresponding amendments to the contract and associated funding, and that without uniform standards being applied across the sector, it could cause a migration of funding to low-cost, low-service third party providers.

I'll go into a little bit more detail, specifically on subsection 4(2), regarding definitions of services. As an agency, we're concerned that some of what we consider core services that we deliver, or how we deliver something that we call supported independent living and home share, is different from the definitions provided in the bill. So we would be concerned that service that we consider core, that's identified and codified in the service contract we have with the ministry, would not be in conformance with Bill 77.

Our recommendation would be that the legislation perhaps permit a broader range of definitions of residential supports than is currently being contemplated.

1330

Regarding section 7 for service agencies, the concern we have is that requirements could be imposed by this section that could inadvertently result in unfunded obligations being put on a service agency such as OCL. What that represents basically, then, is a unilateral amendment of our service contract without necessarily the right of review or appeal. The risk for us as an agency is that we would be unable to plan for our services and unable to deliver those services within a balanced budget, as we're required to do under law. Our recommendations would be that Bill 77 should require that requirements that are imposed either by regulation or more especially through policy directives, because there seems to be a little bit more ability to assign those policy directives by a director of the ministry—we would just like to ensure that

there's some form of review of the service contract in accordance with those changes.

We also think that there should be formal written notice, rather than just publication to a website, if changes are contemplated that would in fact change the contract under which we're funded.

Sections 30 through 32, which concern takeovers, the power of the manager and personal liability: The concerns that we have on those are specifically around the ability to attract and retain volunteer boards of directors. The bill is unclear in terms of the liability that the board would continue to have once a manager has taken over. If the manager is acting as the board of directors and commits additional liabilities to the organization, the way I'm interpreting it right now would be that I would continue to be liable. I'm happy to accept the liabilities that I've created as a board, but if the manager comes in and creates additional liabilities, I'd like to see some limits on that.

Also, the bill doesn't make clear in whose interest the manager must act. I'm sure we can all read between the lines the intent that we want there, but it is not clear in the bill. The risk for us as an organization is that our board would have additional liabilities imposed on it. The change that we'd like to see, if possible, is that the directors of the service agency not be liable for acts or omissions of the manager, that limits and obligations be imposed on the manager and direct him or her in terms of whose interests they have to be serving. Certainly we think there is an opportunity here to indemnify volunteers from liability. With the Good Samaritan-type act that's in place, where because you're helping you're not necessarily held liable—we'd certainly like to see that extended to volunteers. It's getting harder and harder to attract and retain volunteers with appropriate skills at the board of director level. Anything you can do that would enable that would be appreciated.

Section 11, on direct funding agreements: We fully support the move towards direct funding. We're just concerned that, if overused, there is the potential to create a "marketplace," which could lead to a decrease in the quality of service, depending on how third party providers play in that marketplace. The risk we see is that service agencies could be held to a higher service delivery standard, higher quality assurance standards and performance reporting standards, which could ultimately result in a migration of funding away from service agencies and towards lower costs—but also potential lower-quality providers. We would simply like to see uniform standards being applied across the sector. I think that's a message that was echoed by several groups earlier this morning. We think that it would be reasonable to impose limits on what third party brokers, for example, could charge for their services, because we see that as another way that funding can be taken out of the sector, not necessarily providing direct service.

In closing, I just wanted to let you know that we do plan to submit our written brief to you in addition to the handout that we've just provided. We'll provide that

before August 12. We'd certainly like to thank you very much for the opportunity to present to you on our concerns.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. Ms. Jones? There are a couple of minutes to each side.

Ms. Sylvia Jones: Thank you, Mr. Cameron. You've raised some specific things related to the rules and the parameters of the boards of directors which I appreciate, because I think it's something that we're going to have to look at in terms of having to clarify the legislation. Thanks for those specifics.

The Vice-Chair (Mr. Vic Dhillon): Mr. Prue?

Mr. Michael Prue: My questions relate to section 11, and you've made some good suggestions here. We've had many deputants speak about the uneven service levels, the uneven qualifications levels and the uneven pay levels between the service sector and private sector, and also within the service sector, between the unionized workforce and the non-unionized workforce. We've seen salary ranges between about \$10 and \$18 an hour. Is that \$10 and \$18—because I had that challenged earlier—a fair reflection, that some pay as low as \$10, in those that are not unionized, and some pay as high as \$18, in those that are?

Ms. Jocelyne Paul: I can answer that question.

The Vice-Chair (Mr. Vic Dhillon): Please identify yourself.

Ms. Jocelyne Paul: My name is Jocelyne Paul. I'm the executive director with Ottawa-Carleton Lifeskills. I know that people who provide the services for specialized services at home receive around \$10. Exactly how much it is, I'm not sure, but I know that in terms of service agencies, the sector, even within Ottawa there is a fairly large difference between what one agency will pay at the lowest end, which could be \$14, \$15 an hour—I'm not sure—to the higher end of \$23 to \$25 an hour. There's a big disparity.

Mr. Michael Prue: All right. But that is considerably more than \$10.

Ms. Jocelyne Paul: That is.

Mr. Michael Prue: This is part of why I'm zeroing in on what you said here: that the brokers, or the third-party agents, in order to maximize the amount of work they can get, will choose the \$10 people, even though those people may have no experience, no skills and no abilities. Is that what you're worried about too?

Ms. Jocelyne Paul: That is correct, and in situations like that the training levels are lower or could potentially be lower. The quality of life could be affected for the people we serve. That's why we would recommend the same set of service standards for everyone to follow, as well as, if at all possible, additional funding being provided

Mr. Michael Prue: Should the government be mandating that there be a certain level of pay of, say, \$15 an hour, in order to level out the fields, if families want to go one route versus another? I'm not saying to lower the people who are making more; I'm just saying that \$10 an

hour is going to perhaps be unfair to families who want to contract their own services, not understanding that you

sometimes get what you pay for.

Mr. David Cameron: I'll take a crack at that, if you don't mind. I guess my thinking would be that rather than trying to mandate a service level of pay, applying a uniform set of qualifications would be helpful in terms of ensuring the right level of quality of service that's delivered.

Mr. Michael Prue: So you'd have to have some kind of a school diploma or something to get into it, or so

many years of experience?

Mr. David Cameron: Sure. On the flip side, though, what we're seeing is that it's getting harder and harder to attract and retain staff in these types of positions because as the salaries in other sectors have been increasing, especially with some of the economic activity out west, for example, it's impossible—

The Vice-Chair (Mr. Vic Dhillon): Thank you. Mr.

Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation. I believe that I had the chance to visit your organization this spring. I was impressed with your

organization.

I want to talk about liability. I understand that you should put it on your manager's responsibility—I'm joking. People spoke before us today and in the last three days, talking about accountability. You probably heard some of them. Someone has to be accountable, especially at the administration level, whether it's a volunteer or a paid job—they're getting paid—because those people who are at the administration level are making the decisions, and others are excluded from the decisions. So that's why, I guess, to put in place accountability, in order to protect the people who believe strongly in our responsibility to protect, especially when we're dealing with vulnerable people. So we think it's not the fair way.

Mr. David Cameron: We're fully supportive of an accountable environment. I've limited my discussion on liability to specifically around—as a board, a director and a trustee of the organization, I understand that I am liable, and I step up to that liability. Where the ministry decides that, for whatever reason, as a board we're not managing the agency properly and they come in and take over, when that manager then goes about acting as the board, they could incur additional liabilities for the board. We would just like to see that liability set aside and not imposed back onto the original board of directors.

1340

Mr. Khalil Ramal: Just to continue the question from Mr. Prue, why haven't you—as I mentioned to your organization, I saw people coming and going and you service a lot of people who get direct funding. So do you think, as proposed in this bill, direct funding would be a good model in order to give choice to families and mothers and fathers?

Mr. David Cameron: We fully support the direct funding model. We're, in a sense, adopting a bit of a

wait-and-see attitude. At the moment, that's a very small percentage of the client base that we serve. As it goes, it certainly could have fundamental impacts on our organization in terms of how we deliver services, but that's something that we recognize as a reality in the sector and we organize our business as appropriate.

The Vice-Chair (Mr. Vic Dhillon): Thank you for

your presentation.

NEW LEAF LINK

The Vice-Chair (Mr. Vic Dhillon): The next group is New Leaf Link.

Dr. Karin Steiner: Good afternoon. My name is Karin Steiner. My colleague Howard Smith is passing out the handouts that we have.

I'm making this statement today wearing two hats. First, I'm the parent of a 21-year-old son with autism, Nicolas, who has transitioned from school to life on the couch. I will use Nicolas as a proxy for others in his situation.

We live near the village of Sydenham in southeastern Ontario, population about 1,000. Residents of Sydenham and its fast-growing township of South Frontenac are in a no-man's land of social services between Kingston to the south and Sharbot Lake to the north.

My second hat is that of founding executive director of a new non-profit organization that is currently under review for charitable status. New Leaf Link is being established to support the community participation of adults with developmental disabilities in rural areas. I refer you to the handout for supporting details of New Leaf Link and of our presentation today. My statement will use about half the allotted time, and I would be happy to field any questions.

We're here to highlight the special needs of those who live at home in rural communities. We have two main questions about the newly proposed application centres: First, how many are envisioned and, second, what are the criteria for distribution of centres throughout Ontario? We also raise three concerns that are paired with recom-

mendations.

Our first concern is that the needs of those who live in rural areas will be short-changed. When my son Nicolas was denied Passport funding in 2007, we were told that only five out of 229 applicants were funded in our area and that one person in Napanee and four in Kingston were awarded the funds. I wondered why rural applicants were denied in this round.

The honourable Shafiq Qaadri stated on May 26:

« Aujourd'hui, nous aidons les personnes atteintes d'une déficience intellectuelle à vivre en société, dans toutes les collectivité de l'Ontario...."

« Ces personnes ont tout autant le droit que les autres citoyens de participer et de contribuer à la vie de leur collectivité."

"They need services and supports closer to their homes."

We couldn't agree more; therefore, we recommend that there be separate rural branches of any proposed regional application centre to ensure that the special needs of those who choose to live in rural communities are not forgotten.

We emphasize that people today do choose to live in rural environments. The Honourable Minister Meilleur described historical perceptions of those who were placed in institutions as ones who "would flourish in a secluded rural environment, away from the stress and commotion of everyday life." I suggest that rural environments are not necessarily secluded and that they can offer rich opportunities for maintaining inclusive practices. Our sons and daughters with disabilities are well known to local citizens because their school-to-community programs took them into grocery stores, businesses and municipal offices. Nicolas and others in his generation have been part of inclusive schools from start to finish. Ironically, it's only in adulthood that they face the possibility of losing these supports.

Our second concern has to do with both transitioning and transitioned students. I know another student from Sydenham High School who applied for Passport funding along with my son. Each has now transitioned from 30 hours of school-based support per week to zero hours of community support. We know that more than 30 persons with developmental disabilities have graduated from Sydenham High School over the past 18 years. How many of those people knew to apply for Passport funding? I'm concerned that rural applicants might be underrepresented in applying for funds because they no longer have connections with those who could inform them of the competitions. For my son and others, rural schools seem to be the last stop for support before they embark on a life on the couch.

Therefore, to facilitate school transition planning as a springboard for community participation, we recommend that the new application centres include school-based resources and documents in the development of service profiles and in forecasting the need for services in various geographic areas. We believe that the three extra years of schooling to which students with developmental disabilities in Ontario are entitled provide an opportunity to craft a blueprint for community services. Parents in our area long to see school-to-community connections continue beyond school. For example, in-school supports for work in the village hardware store or in the grocery store could be maintained in adulthood. Individual education plans exist for each of our sons and daughters, yet these resources vanish upon graduation.

Our third concern is that even if people in rural areas are informed about direct funding and even if they apply for it, they will remain on waiting lists longer than their counterparts in urban areas. Because there are few services in rural areas, even if funding is awarded, it may be difficult to make maximum use of the money immediately. For example, I have had special-services-athome money for Nicolas for approximately four years, yet I've only been able to use two years of funding because of the difficulty of finding local support workers with access to a vehicle. Other parents have complained

about the same problem. Transportation costs are not funded by special services at home, and we lose the money that we can't spend in any given year.

Therefore, we recommend that special provisions or flexibility in use of funds should be in place for those in rural areas. One scenario might be that allotted funds can be carried over to subsequent years over a set period of time. This type of structure is in place for non-profit charitable organizations, which are permitted to carry a surplus for five years before having to use or donate any extra funds. In addition, some of these funds could be set aside to cover transportation costs, though I would prefer to spend money on service rather than on transportation to service.

We also recommend that a basic amount of direct funding be awarded to all who are on waiting lists for services. Nicolas qualified for \$15,225 per annum in Passport funding. He received nothing. Yet a smaller proportion of that amount, say, \$5,000, would have enriched his life over the past year. Anything that can be offered to people who are on waiting lists is better than nothing. Sylvia Jones stated, "Agencies still receive 80% of the dollars in the sector and support only 20% of the individuals in the province who have a developmental disability while families who provide support to 80% of individuals ... receive 20% of the overall budget." A guaranteed basic amount for all those on waiting lists would go some distance toward redressing the inequities that currently exist.

In addition, we recommend that some monies be earmarked for rural grant competitions to support service provision in rural communities. We know that the so-called "additional services" mentioned in part VIII, section 37(c), of Bill 77 are just as central to the well-being of adults with developmental disabilities as residential placement. With this in mind, we also suggest that municipal agreements could be undertaken with organizations that offer additional services, not just with those that provide residential services, as currently suggested by part VIII, section 39(1), of the bill.

In closing, my colleague and I thank the committee for including us in your discussions around Bill 77. We welcome any questions or comments you might have now or in future.

1350

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We'll begin with Mr. Prue. Two minutes each.

Mr. Michael Prue: Thank you very much. My first question has to go to the thorny question of application centres. You have requested that there be rural branches of the application centres. We've heard that argument, in the north particularly, where they're talking about six rural branches out of Timmins. We've also heard discussion from several people that we not go that route, but that what we have is a mobile application centre where the workers, the people who approve the funds, go out into the community, into the rural areas, and make the assessment in homes; that that is more cost efficient and takes the service to the people rather than the people to

the service. Given the two options, which one do you prefer?

Dr. Karin Steiner: I'm satisfied with an emphasis on the special needs of those in rural communities. I don't have an objection to a centralized application centre. I just think that some mechanism has to be in place for addressing the needs in rural areas.

Mr. Michael Prue: In terms of rural areas, you're also very correct. If you live in a city like Ottawa or Toronto, the services and the service providers tend to be in those locations. Should we be attempting to better fund service providers in more rural, suburban or northern areas? Or should we be pushing the option of making the funds available to the families and having them do the work in finding their own people to assist?

Dr. Karin Steiner: One of the recommendations that we had is to provide some kind of grant incentive so that service providers, whether they're located in urban areas or not, have an incentive for providing services in rural areas. We've got Community Living associations in Kingston and Community Living-North Frontenac in Sharbot Lake. I've talked to executive directors at both those organizations hoping that they could pool resources to come together in our area, but they haven't managed to do that yet. They need an incentive.

Mr. Dave Levac: Thank you very much for your presentation and your good ideas. I appreciate them very much.

By way of information, this will be about two or three, possibly four, ministries reviewing the process during regulations time, and I really will take seriously your concerns and your comments about the potential for having the Ministry of Education involved in the process of transition. It's a great idea and we'll make sure that gets passed on through staff to the minister.

We'd also like to indicate to you that the rural issue has come up a few times and that's being listened to very carefully in figuring out how best to provide those services in an equitable manner. I appreciate very much what your concerns are. We've taken them to heart and will do what we can in order to facilitate those. Thank you very much for your presentation.

Dr. Karin Steiner: Thank you very much.

Ms. Sylvia Jones: Thank you for your presentation, Dr. Steiner. I'm also very pleased that you focused on that transition time because I see a real opportunity, when the individuals are within the school system, to tap into doing some assessing and perhaps bringing in the individualized planning at that stage, before you're left out in the wilderness, as you described it. I'd like your thoughts on whether you see an opportunity for individualized planning that begins while the individual is still in the school system, if that's something that would have assisted.

Dr. Karin Steiner: Yes, and in terms of the IEP, which is the individualized education plan, there's always a section on transition planning. When the student enters high school in grade 9, there is a possibility to begin thinking about transitioning. I would strongly

recommend that community services get involved even at that very early stage so that there's more time, especially in rural areas, to try to craft that plan so that people aren't left sitting on the couch.

Ms. Sylvia Jones: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you.

ARCH DISABILITY LAW CENTRE

The Vice-Chair (Mr. Vic Dhillon): Next we have ARCH Disability Law Centre. Please state your name for the record. You may begin. You have 15 minutes.

Ms. Lana Kerzner: My name is Lana Kerzner and I'm a lawyer at ARCH Disability Law Centre. With me today is Kerri Joffe, who is also a lawyer at ARCH.

We have provided you with a written version of the comments we are making today. I think they're being handed out now. We are going to be providing more detailed written submissions by Tuesday, August 12. Because of the limited time we have today, we will not be covering all of our recommendations relating to Bill 77.

ARCH welcomes the opportunity to participate in this public hearing. We are here to talk to the committee about legal rights for people with developmental disabilities. Our comments and recommendations about Bill 77 stem from the experiences ARCH hears directly from people with developmental disabilities, their families and support people and community groups, many of which have their roots in rights violations.

I will briefly describe our organization. ARCH is an Ontario-based community legal clinic that is dedicated to defending and advancing the equality rights of people with disabilities. ARCH is governed by a volunteer board of directors, a majority of whom are people with disabilities. We provide a telephone summary advice and referral service to Ontarians with disabilities and engage in test case litigation. We also make submissions on matters of policy and law reform.

In this presentation we use the term "developmental disability," as this is the term used in Bill 77. In doing so, we note that there are various views regarding the most appropriate language, and we defer to members of the community and people with disabilities themselves re-

garding appropriate terminology.

Our fundamental concerns relate to injustices and abuse to which people with developmental disabilities are subject in their receipt of services, especially in group homes. In preparing our submission, we reviewed records of calls made to us for advice over the past five years. The majority of concerns relate to serious rights deprivations in group homes that, in our view, society would never tolerate in the lives of people who do not have disabilities. People complain about all forms of abuse in group homes that create a living hell both for the individual and those who support him or her. We have been told about people being dragged down stairs, being left in the cold without blankets, being prevented from seeing family and friends, experiencing neglect relating to medical needs and having their cherished personal belon-

gings stolen. People have been refused transfer requests despite an existing abusive situation. However, they have also been forced to move from one group home to another without regard to their wishes or the disruption created in their lives. Over and over, we hear of desperate and failed attempts to resolve these situations through the group home and/or the Ministry of Community and Social Services that funds the homes.

The committee has heard many people recommend the addition of a preamble to Bill 77. ARCH agrees with this position. Both the government and the community feel that transformation is needed and that the new developmental services system should have as its primary aim the support of people with developmental disabilities to live as full citizens in their communities. Legislation that aims to set new social policy and transform a sector must clearly say so. We need to know where we're going in order to get there.

Although different, a preamble and a purpose provision are both authoritative sources of information regarding the Legislature's intent when it passed the law. ARCH submits that both are required in this legislation. These components serve the important and practical function of guiding the way in which the law is to be interpreted, applied and implemented. A preamble and purpose section will help to ensure that the ministry, directors, inspectors, application centres, service agencies and others who are charged with implementing Bill 77 carry out their duties in a way that achieves the goal of enhancing the citizenship and social inclusion of people with developmental disabilities. In addition, a preamble and purpose section will help to ensure that courts and administrative tribunals will interpret and apply the law in a way that achieves these goals.

1400

A preamble and a purpose section also serve important law-making functions. Inserting these components will ensure that the legislative scheme is internally consistent by providing a lens through which to evaluate the rest of the bill. These components will also assist future policy-makers and legislators to create regulations and policy directives that are in harmony with the rest of the act.

The preamble should articulate our belief that people with developmental disabilities are equal and valued citizens of our province and that the services provided to people with developmental disabilities must enhance their opportunities to achieve full citizenship. The preamble should affirm that people with developmental disabilities have the right to dignity and self-determination, and it should recognize the need for public accountability and transparency with respect to services.

Our written submission will provide more details about what should be included in the preamble and purpose provisions in order to meet the bill's objectives.

Bill 77 is extensive and detailed but does little to address the concerns we hear. It is ARCH's view that these problems have arisen in part from the flaws and gaps of the current Developmental Services Act and its associated regulations. There is an absence of a clear

statutory framework. A vision of full participation and citizenship requires that the dignity and well-being of people who have developmental disabilities be respected. It is our view that substantive rights need to be enshrined in law in order for this to occur. These rights are largely absent from Bill 77. It is our grave fear that without amendments to the bill to remedy this omission, people with developmental disabilities will have no legal tools with which to address their concerns. New laws will exist, but the lives of the people to whom these laws are aimed will remain unchanged.

In this respect, ARCH recommends that Bill 77 include a statutory provision for substantive rights for people who have developmental disabilities. These should be set out in a separate section and referred to as a bill of rights. These should apply with respect to both funding and services. At a minimum, several rights should be specified, such as:

—the right to live free from discrimination, harassment and abuse;

—the right to raise concerns or recommend changes and complain without fear of reprisal; and

—the right to be treated with respect and to promote the autonomy of people with developmental disabilities.

There must be a specific provision in the act that states that the act, regulations and all agreements between the crown, service providers and those receiving services be interpreted so as to advance the objectives set out in the bill of rights.

Similar bills of rights are enshrined elsewhere in Ontario laws, notably in the Long-Term Care Act and the not-yet-in-force Long-Term Care Homes Act, as well as current legislation relating to long-term-care homes. We do not recommend a wholesale adoption of these, as rights must be tailored to the context of people with developmental disabilities. Specific rights relevant to the developmental services regime must be identified and articulated in a bill of rights in Bill 77.

The bill of rights must be in plain language and available in accessible formats, such as pictures. There must be a requirement that people in receipt of funding and services are made aware of it.

The complete omission in Bill 77 of specific provisions for addressing abuse is a mystery to ARCH in view of the documented research, confirmed by ARCH's experience, relating to abuse of people with developmental disabilities. It has been estimated that over the course of their lifetimes, people who have a developmental disability are at least one and a half to two times more likely to experience abuse than people who do not have disabilities. Community Living Ontario, in their written response to Bill 77, also expresses concerns relating to abuse.

Because of the severity and prevalence of abuse, it is imperative that the statutory framework address situations of abuse which occur in the context of services and programs for people who have developmental disabilities. This must be addressed specifically, directly and comprehensively. The scheme should include several components, including duties of both the ministry and service providers to prevent, recognize and address abuse.

Detailed legislative provisions regarding abuse, especially in relation to the populations which are most affected by it, are not new to Ontario legislation. Both the Long-Term Care Act and the not-yet-in-force Long-Term Care Homes Act contain comprehensive provisions relating to abuse.

Ms. Kerri Joffe: Bill 77 provides for a review if an application centre decides that a person is not eligible for direct funding or services. The person or entity who will conduct the review, and the rules and procedures that apply to the review, are not dealt with in the bill. These are left to be defined by regulations, which, in our view, is wholly insufficient.

ARCH submits that a full right of appeal for eligibility decisions must be incorporated into Bill 77. It is essential that such appeals be made to a person or entity that is independent from the application centre. This is the only way to ensure that the appeal is unbiased and fair. We recommend that the appeal be to a director appointed by the minister, with a further appeal available to a designated administrative tribunal or board.

It must be noted that appeals of administrative decisions to independent tribunals exist for many other government-funded services. For example, the Social Benefits Tribunal reviews decisions regarding Ontario disability support program benefits and Ontario Works benefits. It is troubling to us that Bill 77 does not extend the same rights to people with developmental disabilities.

Decisions about eligibility for services or funding have an enormous impact on the lives of people with developmental disabilities and their families. The result of eligibility decisions is that people may be left without the vital services they need, such as group home placement, care at home or respite. People with developmental disabilities should have the same rights to appeal eligibility decisions as are afforded to others.

It is crucial that the appeal process be accessible to people with developmental disabilities. Similarly, the administrative board or tribunal that hears appeals must also be accessible for people with developmental disabilities. It must have procedures that are flexible and enable people with developmental disabilities to easily participate in the process. Tribunal members must have specialized knowledge of developmental services issues and must have training in working with people with developmental disabilities.

It is also deeply troubling to us that Bill 77 does not set out any process to enable people to make complaints about the services they receive. This is especially so in view of our submission that the Ministry of Community and Social Services must ensure that services are being provided that comply with the act and any regulations or policy directives. This is integral to the provision of services in a way that ensures public accountability and transparency.

The bill only says that the Lieutenant Governor in Council may make regulations governing practices and procedures relating to complaints and that the processes will, in fact, be defined by regulations. In our view, this is insufficient.

ARCH recommends that Bill 77 include a full complaint process. It is particularly important that the bill include provisions allowing for complaints and appeals based on a violation of the rights set out in our proposed bill of rights.

The Vice-Chair (Mr. Vic Dhillon): Thirty seconds.

Ms. Kerri Joffe: It is common for complaint processes to be laid out in other Ontario legislation. The not-yet-in-force Long-Term Care Homes Act and the Long-Term Care Act both contain provisions that establish a complaint process. People with developmental disabilities must be afforded the right to make complaints about services they receive, and especially when these services do not meet the requirements set out in the act and any regulations or policy directives.

Because of the power imbalance between people with disabilities and the Ministry of Community and Social Services—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. The time allotted for you is up. You can hand in the remainder of your submission to us. Thank you. We have a very tight schedule. There are lots of people presenting.

1410

TAYSIDE COMMUNITY RESIDENTIAL AND SUPPORT OPTIONS

The Vice-Chair (Mr. Vic Dhillon): Next is Tayside Community Residential and Support Options. Good afternoon. If you can state your names, you have 15 minutes. You may begin.

Ms. Wynn Turner: My name is Wynn Turner. I'm the president of Tayside Community Options. Accompanying me is Steve Tennant, who is the vice-president of the board of directors of Tayside Community Options.

Good afternoon to all the members of the standing committee. It is a pleasure to be here and to make some representation on behalf of the people whom we serve. I'd like to, as Steve will, tell you a little bit about my background, which is quite extensive in health and social services. Over a period of 42 years, I've worked in a variety of positions, including the administrator of Rideau Regional Centre at Smiths Falls from 1986 to 1997. I was also an interim executive director of Ottawa Valley Autistic Homes, and I provided expert advice to the Ministry of the Attorney General for the Ontario public service after my retirement.

In other fields, I was also an administrator of a long-term-care home, and I'm familiar with the legislation under which those homes operated and the bill of rights referred to by the previous presenters.

A little bit about Tayside: We are a not-for-profit charitable organization. We operate four group homes. We have an independent living program and a home share program, as well as social housing. Additionally,

we have child care and social housing programs under our wing, and we primarily operate all of our programs in the town of Perth, Ontario.

Let me first congratulate all three parties for supporting the move to community living and all those transfer payment agencies and public servants who worked so hard to realize this dream. We can be truly proud in Ontario for the system that we have created. Here we are, celebrating this very year the creation of a completely community-based service system. This system emerged from people across this province advocating for better services for people with developmental disabilities. It resulted in a visionary document called Challenges and Opportunities which was released in 1987. The vision was to close all institutions by 2012. We are four years ahead of that commitment. Congratulations to all those who achieved this dream.

But let me now get to the tough part. I have three points that I wish to speak to where we believe that this act needs significant strengthening: First, we are operating a system that is underfunded; secondly, I will be speaking to third party advocacy, as the previous speakers did; and thirdly, the stability of funding for a charitable not-for-profit system.

First, then, let me speak to the chronic underfunding for this sector and some of the fears we have as a result of this for the act which is being presented.

Having achieved a vision, we are sad to see that this act makes no commitment that all individuals with intellectual disabilities or developmental disabilities will have the right to receive the services and supports that they need, because we are enshrining a waiting list in this legislation.

We believe that the dream for justice for the most vulnerable in our society will not be done until there is fair and transparent accessibility to services currently afforded to the deinstitutionalized and the wards of the province. Those individuals who have a developmental disability should have a right to the same level of service afforded to those who have been deinstitutionalized. Right now, there is a glaring inequity shown by long-term community waiting lists that would make waiting lists in the health services sector look very modest across this province, quite frankly.

These waiting lists have been validated by agency and ministry staff through the Making Services Work for People assessment tools which were produced by the ministry some time ago. Although the community system has received additional dollars, both operating and capital, these dollars have almost exclusively been used for those coming out of the closing institutions—essentially a transfer of dollars within the total system, not new money. Families who have kept their children home do not receive equivalent care when it is needed. They just go on waiting lists with crisis after crisis, accommodated with funding only when there is no alternative—often having to be done somehow within the MCSS. It is this underfunding that promotes the perception of the system as impenetrable because there are no guarantees, and

frankly, those individuals with parents who are strong advocates for them are better at getting the system to work for them. But what about the rest?

We have other legislation in this province that sets out a mandate for services in its act. For example, the Education Act addresses the special educational needs and the right to education for all children with special needs. When that legislation was passed a long time ago, and I remember it well because I was a juvenile probation officer at the time, there were many who said it could not be done. But it was—just like the institutional end happened—and in addition to other services, children with developmental disabilities were integrated into the school system. There is no such guarantee offered in this bill for meaningful day programs for adults who, due to their level of intellectual functioning, will likely never be able to perform paid work.

I say to you today, our province can do better for its most vulnerable. We need to make the funding of essential services to individuals with developmental disabilities mandatory in the act as a fundamental condition of citizenship. This would include increases in special services at home funding, day programs, and relevant residential placements for these individuals.

Along with this, clear entitlement provisions should be captured to ensure that the system is fair and transparent, to make clear to citizens what they are entitled to receive. There is no such setting out of what people can expect in this province if they are currently not receiving services.

As I said before, not all people with developmental disabilities have the advantage of the advocacy of their natural communities, families or APS workers. We believe these most vulnerable people should have the right to honest, arm's-length advocacy to ensure their best interests are represented. We note that there are no provisions in the act to protect the safety and security of vulnerable adults with an intellectual impairment through a formal complaint procedure or third party advocacy. Long-term care has one, children's services has one, so why do adults with developmental disabilities not have one?

Thirdly, there is a need for stable funding for agencies to be able to operate their programs successfully. We believe that the current charitable not-for-profit model of service should be continued to ensure quality of care and putting every dollar into service, not profit.

I thank you for the opportunity to speak to you today. I sincerely hope that you will take these ideas back to your deliberations. The critical question is, can we do much better for the most vulnerable in our society?

Mr. Steve Tennant: I'm Steve Tennant. I have been working in the field of developmental services for 34 years in group homes and in workshops, when they existed, and I've been an adult protective service worker in the town of Perth and surrounding area for the past 26 years. I've also sat on the board, as a vice-chair, for Tayside Community Options since its inception 19 years ago.

I am concerned, as is our board, about the following issues: no legislated guarantees for care of this most vul-

nerable population, underfunding, and a legislated lack of

There have been a lot of changes over the years in regard to services for developmental disabilities, as Wynn outlined. Most of these have been positive, where we've learned best practices and our clientele and their families have benefited.

To be honest, though, this bill really scares me. I see the province stepping away from its responsibility. When I see waiting lists being validated in legislation, let's face it, I cringe. Examples are the Education Act, which provides guarantees for special education for people with disabilities, and the health care act, which also has minimum standards.

There must be some way that legislated guarantees of support can be there so families can be assured that ongoing supports for their loved ones will be there when they are no longer able to provide.

Bottom line: People need day program options and appropriate supported accommodation options that would reflect their response to their needs and wants.

One of the positive improvements was the decision to

close the institutions. We see that happening with Rideau Regional right now. Unfortunately, what we're also seeing is a double standard of care in our province.

Tayside Community Options, our organization, is looking forward to opening a new group home in Perth for six adults from Rideau Regional Centre. These folks are severely multiply handicapped, requiring total care, so we planned with ministry representatives. This specialized home's capital costs are in the neighbourhood of \$900,000 to address their needs.

Meanwhile, Tayside has brought several proposals to the planning table asking for funding for group homes costing a fraction of this to respond to needs of local adults who also have multiple needs and whose parents have saved the government millions of dollars by keeping their children at home, and we're continually told there's no funding.

1420

The same thing appears with transition-aged youth who have been in the child welfare system who, when they become of age and require ongoing support, have huge price tags automatically annualized for them. Meanwhile, agencies in the community who are trying to support the same type of individuals who may still be living at home and may have the same problems are not getting the dollars that they need.

Unfortunately, supported beds only seem to be available in our area when the death of a resident happens at one of the group homes. Let me tell you how difficult it is to look weary people in the eye-parents and siblings-when they've had to hear that there are no funds for them after they hear what incredible funding is happening for people who are directly connected with

government supports.

I trust those who work on this bill will remember the old adage that government will be measured on how it supports its least able. Allowing waiting lists is unacceptable. People with developmental disabilities have rights, too, as I'm sure you've heard over and over at this table today. Legislated guaranteed care for our most vulnerable is imperative and needs to be corrected in this act.

In regard to underfunding, which is the real issue: Though we certainly have inequities in the current system, overall I truly believe we've developed across this province a very good system of agencies who do their best with what little they get to provide for individual needs. Unfortunately, this system is stretched to the point of breaking down for no other reason than underfunding. The strikes last year were prime examples. As our population grows and ages, so do our needs. Waiting lists around the province already exist. These prove there are huge needs that require immediate funding.

There already exists a system for applications, with knowledgeable staff who can assess and develop plans for people's needs. This system may need to be tweaked in some areas, but the last thing we need is another level

of bureaucracy.

The Vice-Chair (Mr. Vic Dhillon): One minute.

Mr. Steve Tennant: One of the issues that also comes around is in regard to trying to deal between ministries. I have been trying to get support for a 20-year-old client who has Duchenne muscular dystrophy and disabilities and having incredible difficulties trying to get things that would be affordable. His supports would cost \$55,000 a year to be able to keep him in his home so that his mother can go out and work. Unfortunately, I'm having trouble getting those funds, and he may end up being hospitalized, which will end up costing \$2,000 a day, or \$730,000. How responsible is that?

I also want to reiterate the importance of legislated advocacy. Yes, I am an adult protective service worker, and I strongly believe that this population needs third party advocacy. We have some wonderful families out there, but we have a lot of people who have no connections and need third party support to get through the bureaucracy that we are presenting before them.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much for your presentation.

PEOPLE FIRST OF CARLETON PLACE AND DISTRICT

The Vice-Chair (Mr. Vic Dhillon): Next we have People First of Carleton Place. Good afternoon. If you could state your names for the record, you may begin. You have 15 minutes.

Mr. Kory Earle: Good afternoon. My name is Kory Earle, the president of the local chapter. Right beside me is Manon Lépine, who is the vice-president of People First of Carleton Place and District. You heard People First of Ontario speak on Tuesday regarding several issues you'll hear again, but I think it's extremely important that what we say today will really reflect on your decision in making Bill 77.

Who we are and why you need to hear from us: People First of Carleton Place and District is an organization for people with intellectual disabilities. We started our local chapter in 2006. We are a province-wide organization, so therefore we fall under People First of Ontario. We want all people to be treated equally. We want others to see us as people first, not disabled people.

People First of Ontario helps people who have been labelled to speak for themselves. We help people make their own decisions. We teach people that they have rights and many abilities. People First of Ontario wants people who are labelled to have real jobs with real pay. We want people to have safe places to live that they can afford. We want to be included in all areas in the community, not segregated in schools, institutions or our social activities. We want to have the support that we need to be fully included in the Ontario communities that we live in.

We are pleased that the government of Ontario recognizes the changes that need to be made in order to give people who are labelled more choices and control over their lives. Although we realized that the current act, the Developmental Services Act, is 35 years old and outdated, we know that once this new act is in place, it too will be around for a long time. This new act will affect us, people labelled with developmental disabilities, more than anybody else on a day-to-day basis.

You need to hear what we have to say, and we ask that you take us seriously.

Concerns around inspections: As I indicated on Tuesday, we really do hope in regard—in Bill 77, it indicates that the ministry can walk in to any resident or group home without a warrant. We disagree. Why should the government have the right to walk into these people's homes? The problem is that people with disabilities are losing their rights. They cannot walk into your home unless they have a warrant. I understand that this is because they want to make sure nothing is going on, although these residents in these homes—if something is going on, what is the government going to do? Shut it down and leave these residents homeless? We think that an inspector needs to have a legal document, like a warrant, that explains that they have a good reason to come in before entering our homes.

Another point related to inspections is that the government has to realize that people are afraid of speaking up. This is because they are afraid of losing their supports and funding. This is why some people can be afraid of service agency staff or government people.

Ms. Manon Lépine: Title of the legislation: While this act would mean that it would still be called the Developmental Services Act, we think the government should look at the act and change the name to include "Intellectual Disabilities Act." I think that "developmental" is labelling someone. The government would not want to be labelled, so why should people with disabilities be labelled? This needs to change.

Concerns around definitions: We are also concerned about some of the definitions in the proposed new act. For example, what does the act mean by "family"? We have to remember that many people with developmental

disabilities do not have families. Our concern is that if we do not have a family member to help us set up our funding and supports, who will help us? The act cannot forget people who do not have families.

Also, the new definition of developmental disabilities is very medical. The new intensity scale is also very medical. It worries us that the amount of support and funding you might get is based on your level of need. People will be getting trained across the province on how to deliver this test. We fear that we may go back into the Ministry of Health as sick people instead of people who need supports to live in their communities.

We want to make better lives for ourselves, just like you. Our dreams are not just based on our level of disability; our dreams and needs are bigger. We want to work in stores, go to college, be poets and actors, have real friends, volunteer and take dancing lessons. These kinds of things need the whole community supporting us. We want to be seen as individuals with individual needs for supports to make our dreams come true.

There's not enough on supporting people to live in the community. If we are seen as individuals, then there will be more community-level planning. There's nothing much in this new act that talks about planning for our lives in our communities. For example, do we have to be in a group home to receive services or supports?

We want to be supported to live in the community with people of our own choice and supported to make our own decisions. The new act spends a lot of time talking about agencies and services. For example, the act talks about waiting lists for services. We would rather it talked about having our support needs met through ideas such as person-directed planning or supported decision-making.

The ministry talks about citizenship, but unless this act helps us plan towards life in the community, just like everyone else, how can we be true citizens?

Mr. Kory Earle: Concerns around the application centres: In Bill 77, it indicates that the government will be putting up application centres for people to apply for supports. With these application centres, there will transportation issues and much more, and you can't even be guaranteed that you would get the supports that you need. Please keep in mind that it seems like the application centres have a lot of rules and authority and can therefore put us in a vulnerable situation. We agree with Community Living Ontario: The act should talk about the application process, not centres. We also think the government should be clear on where these are going to be placed. All application centres must be accessible.

Fear of losing rights: I really want this one underlined because there's nothing in the act that talks about people's rights. The act talks about a lot of things, but it does not talk about people's rights. Our local chapter has a problem with that. It just seems that the government will be in control of what people with disabilities do. We are asking the government, when making a decision in regards of this act, to really look at the person who will be affected the most. We think the government should

put in the act talking about the rights of people with an intellectual disability. I think that one should really be underlined a million times, to be clear in the act about

people's rights.

Ms. Manon Lépine: Threat to people having a voice and their independence: One of the most important things People First does is assist people who are labelled to have a voice and be heard. We need to be supported; however, in order to have a strong voice, we should have an adviser to read through anything before we sign it. An adviser is someone who we trust and feel comfortable with. We choose our adviser. The adviser shares and listens and helps us understand. Advisers share what they think with us and reword things in plain language so we understand. An adviser also helps us make decisions. An adviser does not make decisions for us. We need an adviser in order to help us access supports.

Direct funding is something we think is very good, but without support to understand agreements etc., we can be very vulnerable once again. We are vulnerable in signing agreements we don't understand and in hiring the wrong

people.

We had hoped that the transformation process would give people who are labelled with a developmental disability a greater voice and more power and control over their lives. But it seems that through this act people have little control, agencies have more control, and the application centre and the government will have tons of power, control and authority. We are very worried about this.

The government really needs to remember that we are the ones directly affected by the proposed changes in this act. At the end of the day, government people and agency staff go home to a life that they have tried to make good. We go home to what we have been able to get. The more this act and the government of Ontario begin to see us as individuals who want to live in the community with proper supports, the better that home and life will be.

Mr. Kory Earle: Conclusion: People First of Carleton Place and District would like to thank the government for allowing us to speak today. We also want to say that in this act it states that all agencies and other people will be accountable for what they do. We agree with the government on accountability and we have dealt with agencies before where they where they not accountable for what they have done. So we really encourage accountability, not necessarily just for agencies but for all. Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you. There's about a minute each. We'll begin with the gov-

ernment side. Mr. Levac.

Mr. Dave Levac: Thank you for your wonderful presentation. I appreciate the depth of which you've spent to get an understanding, and providing us with an understanding, of the position that you take at People First. There are several other groups that have spoken, but none as eloquently as you about your own selves. I appreciate it deeply.

We have heard, and we are going to be making sure that this voice is heard. The staff and the government,

along with the opposition, I'm sure, will remind us of what your concerns are and we'll try to entrench those concerns in the development of the bill. Well done.

The Vice-Chair (Mr. Vic Dhillon): Ms. Jones?

Ms. Sylvia Jones: Thanks for your presentation. It's nice to see you again. I am particularly interested in the issue you raise about people's rights. If, as you have pointed out, we haven't changed this act in 34 years, then let's make sure we get it right this time around. So we'll make sure, at least on the opposition side, that we try to keep that focus. Thank you.

The Vice-Chair (Mr. Vic Dhillon): Mr. Prue.

Mr. Michael Prue: Thank you for what you said. Two sentences are particularly poignant to me and I want to commend you for putting them down.

You say, "At the end of the day, government people and agency staff go home to a life that they have tried to make good. We go home to what we have been able to get." I think that says everything in a nutshell about what's happening here.

I just ask one question: You talk about the necessity of a warrant. Who do you see issuing the warrant, or do you care? Sometimes it's judges or justices of the peace and in some laws it's senior people in the department. Or do

you just insist that due process is followed?

Mr. Kory Earle: This was brought up Tuesday in regard to inspections and stuff like that, for warrants. A lot of people may disagree with me. However, I'm going to be very bold about it, because the fact is we're not disagreeing with inspections. We don't want that in any text taken away. What we're trying to say is that there are other people inside and that if a situation arises, deal with that outside or deal with that somewhere else.

I believe that you guys, you government people, would not let anybody into your house unless someone has a warrant. I just cannot express how—if you guys aren't putting yourself into the situation of that person who has a disability-

The Vice-Chair (Mr. Vic Dhillon): Thank you very much for your presentation.

ONTARIO PUBLIC SERVICE **EMPLOYEES UNION**

The Vice-Chair (Mr. Vic Dhillon): Next we have the Ontario Public Service Employees Union. Good afternoon. If I can get you to state your name, sir—

Mr. Smokey Thomas: Smokey Thomas.

The Vice-Chair (Mr. Vic Dhillon): You have 15 minutes. You may begin now.

Mr. Smokey Thomas: Thank you. Good afternoon. My name is Smokey Thomas and I'm president of the Ontario Public Service Employees Union. I'm here today to speak to our concerns about Bill 107.

OPSEU represents 8,000 people who provide supports to people with developmental disabilities all across Ontario. Our members' close relationships with the individuals they support and their families, along with years of experience, provide them with significant insight into what is needed in the sector. I would like to say that we recognize the need for new legislation for this fast-growing sector.

For years, OSPEU has been pushing the government to make services for people with developmental disabilities a priority. We know that too many people with developmental disabilities are going without the supports they need. The government must deal with the long waiting lists that are preventing many families from accessing necessary programs and supports.

We applaud the fact that the government is making people with developmental disabilities a priority. The need for improvements and change has been identified by people with developmental disabilities, their families, government, staff and caregivers, and transfer payment agencies. But we have some concerns about the form that change is taking. Change is necessary, but it has to be the right kind of change.

As it stands now, Bill 77 will lead to a serious erosion in the quality of services currently provided by developmental service agencies. The new bill, as structured, will lead to destabilized funding for agencies and the creation of a parallel, privatized, competitive bidding system similar to the one that has been so disastrous in home care.

That's why I'm here to speak to you today. It is really important we get this right. Too many people's lives and well-being depend upon it.

1440

Most families who have a child with a developmental disability want quality supports and services they can count on as provided by the community-based developmental service agency system. Most families' lives are extremely demanding and they don't have the capacity to manage the many different types of supports and services their loved ones need. OPSEU is worried about aspects of this legislation that will lead to the erosion of the quality supports agencies are now able to provide. Our biggest concern with this bill is the creation of individualized budgets through the proposed assessment process. What this bill sets out is a needs assessment of each person with a developmental disability and then attaches a dollar value to the service needs of that person.

The creation of regional access centres and the development of a standardized needs assessment to ensure everyone is getting the supports they need has the potential to be very helpful for families. This aspect of the proposed reforms could make it much easier for families to identify what services are available, and standardized assessments could help ensure everyone gets the level of supports they need.

The problem comes with attaching funding dollars to the assessment results. If this bill goes ahead as is, instead of receiving a stable block of program funding as they do now, agencies will begin to receive the funding as it comes with each person for their service needs. This will mean a loss of essential administrative and overhead costs that go along with running an agency. Agencies will be forced to cut corners to cover operating costs. As a consequence, the quality of supports agencies now provide will deteriorate. And since the funding will be tied to the client, agencies will become vulnerable as clients move on. Agencies will go without these funding dollars while they work to fill the placement.

It is critical that all reforms work to expand and improve the quality of supports developmental service agencies provide. Serving more people cannot come at the expense of the quality of supports everyone is now receiving.

Another of our big concerns with this legislation is the creation of third party private brokers. As you know, there are long waiting lists for services all across the province. If the bill goes ahead as is, this will mean families will have very limited options after receiving an assessment. Technically, they will be able to use their assessment to access agency-provided services, but in most cases it will mean staying on the same waiting lists they're already on or taking the individualized funding option.

Given this limited option, most families will have no choice but to take the individualized funding. Most working families don't have the capacity to find, hire and manage all the different types of supports and programs they need. They'll have no choice but to turn to the newly created privatized brokers. These brokers will take an automatic cut off the top and then find the lowest bidder to provide the services. This provision in the bill opens the entire sector to privatization and lowest common denominator service provision, as we've seen through the competitive bidding process in home care. It doesn't work in home care and it won't work in developmental services.

Lastly, we're very concerned that the assessment process will lead to a loss of services for some people now receiving high levels of support. This bill sets out to provide services to more people within existing funding dollars. It also legislates the assessment of everyone with a developmental disability, including those already receiving services.

The inevitable outcome of this assessment, given the goal of equalizing services for everyone with a developmental disability, is the loss of services for some already in the system, as was also seen in the home care sector. Although many improvements can be made to the current service delivery model, dramatic increases in funding are essential to any plan that professes to meet the needs of this growing and vulnerable population. The reality is that medical advancements have meant that many more babies are surviving at birth with developmental disabilities and they are living much longer. This means that the need for developmental services is on a steady incline, as has been seen for years.

At the same time, the government is in the process of moving 1,000 of the highest-needs people with developmental disabilities out of the three remaining regional centres and into community agencies, putting a further strain on the system. No amount of tweaking is going to fix the overarching problem that there just simply aren't enough services to meet demand.

Over the last year, the government has made some significant steps in increasing funding to this sector, but the reality is that the present level of funding doesn't come close to meeting the real need. At this point, the government has made no clear commitment to transfer all funding now dedicated to running the regional centres into the community-based system.

In conclusion, I would like to again applaud the government for making people with developmental disabilities a priority. We recognize your intention to improve supports for families and individuals, but we have serious concerns that aspects of these proposed reforms will lead to a serious erosion in the quality of supports currently provided through community-based agencies.

We would appreciate the opportunity to work with the government to amend this legislation to ensure we get these reforms right. First, it's critical that the funding model for developmental services agencies not be tied to the proposed individual budgets created through the needs assessment process. Without core, stable funding, agencies won't have the capacity to provide consistent, quality supports. Second, third party, privatized brokers must be eliminated from this bill. The creation of a parallel private for-profit system within developmental services will only lead to real long-term problems. Third, we ask that if the government is going to insist on closing their three remaining regional centres, they publicly commit to transfer all funding now dedicated to running the centres into the new community-based system. This funding must be in addition to all other money already committed.

We would also like the government to take advantage of the large talent pool of highly trained staff who work at the centres. Your efforts to ensure their placement in the community sector would help to build on the quality support now provided. People with developmental disabilities need quality support they can count on, and it's up to all of us to ensure that happens.

Thank you very much.

The Vice-Chair (Mr. Vic Dhillon): Thank you, sir. We have exactly two minutes to each side. We'll begin with the PC side.

Ms. Sylvia Jones: Thank you, Mr. Thomas. I wanted to ask you one question in terms of your concerns with direct funding. While I have spoken to many families and individuals who are very much looking forward to that opportunity, if you disagree with that—which, based on your brief, I'm reading—where do you see the role of the family and the individual in choosing the most appropriate services for them?

Mr. Smokey Thomas: If you're going to have assessment centres, I truly believe that the current agency system in place could be built upon to provide that function, for a couple of reasons: (a) They already have the capacity—they do it now; (b) it's not-for-profit; and (c) you wouldn't have to invest—I don't know how much it would be—to build new infrastructure and a new system. I heard someone say a new level of bureaucracy, but we don't believe it is required. You have the capacity in the system. You already do it now.

Ms. Sylvia Jones: Yes, I have no qualms about not moving forward on the application centres. I was more looking for your thoughts on where the role of the individual and the family is. If they can't access direct funding, what role do they play in choosing the most appropriate level of supports and services?

Mr. Smokey Thomas: They already play a role, but if you were to look to the psychiatric hospital system, the change to the community there would provide some very meaningful direction in this sector in terms of advocacy. I think the advocacy role in all sectors should be expanded upon. We don't have to reinvent the wheel. It already exists within the current system; you just have to look for it and find it. Families are very involved in both systems—the psychiatric hospital system and the mood of the community. The role of the families working with staff and the clients has been increased dramatically, so it's already there. It can be made to work without introducing a profit margin to it.

Mr. Michael Prue: A couple of questions: The first one has to do with those workers who are currently in the three regional centres. You made the statement that you "would ... like the government to take advantage of the large talent pool of highly trained staff who work at the centres. Your efforts to ensure their placement in the community" etc. Is the government not committed to placing those workers within the expanded community service centres that they're advocating?

Mr. Smokey Thomas: It's going that way, but it's slow and arduous. The transfer of dollars to the community system: there's not a large enough influx relative to the payrolls of those sectors and the community system is not built. So what we're saying is if you look at the people who work in those facilities, they could actually help you build and expand the capacity of the community system. As well, people in those facilities do the assessments. They provide a range of services that are needed by everyone whether you live in an institution, a small community or in a group home. We've long advocated what we call the hub model, and that's kind of what the community agencies could provide. We'd like to see the government sit down-and there's some work being done and some headway being made, but there's a large number of people on both sides of the equation, a large number of workers looking for work and a large number of people looking for services. If we could get both parties to sit-well, our side will sit at the table, and if government would sit down and be creative, I think we could really-

1450

The Vice-Chair (Mr. Vic Dhillon): Thank you.

Mr. Joe Dickson: Thank you, Smokey. Just for future reference: There's a minor technicality in the introduction. It's Bill 77, but listen, as an old typesetter, I've made lots of typesetting mistakes in my life, so don't let it concern you.

I just have a bit of a quandary. As a businessman with a non-union staff, even though I have a couple of pressmen who, at my encouragement, maintain their union membership—I just like to see them do it as a safe-guard—and as someone who worked as a youth under the old UAW and even just a couple of months ago supported our hospital workers—and a real problem we had—I always have concern for a fair wage, and generally that means more money.

But in the last few days we've heard some real problems in a recent strike. My question is, because of the sensitivity to people with developmental disabilities and the indiscretions that occurred during that strike, should service providers and agencies be declared an essential service to really ensure a caring, uninterrupted level of service for residents with disabilities? Or alternatively, if they were union members, how could you guarantee that would never happen again?

Mr. Smokey Thomas: It would be up to the government to declare them an essential service and pass legislation, and get into a fight with us, but you might win that fight. I personally believe that some unionized people who work in this system would welcome losing the right to strike, but they wouldn't have an alternative to settle the dispute. You'd have to have a binding arbitration option. You would find some people who, I believe, wouldn't care, and you would find some people who would stand up and say, "It's my democratic right to remove my services through a lawful process if I so deem." So I think you'd have a really mixed opinion. It would be up to the government to take it away.

Is it an essential service? Perhaps the government should look at the provision. In the OPS, there is a provision of essential and emergency service built into legislation, so that's probably a review for another day. But those strikes were as much about the quality of services as they were about getting more money into the system, as well as wages—

The Vice-Chair (Mr. Vic Dhillon): Thank you.

MARCEL WALSH

The Vice-Chair (Mr. Vic Dhillon): Marcel Walsh? Welcome to the committee, Mr. Walsh. You have 15 minutes.

Mr. Marcel Walsh: My name is Marcel Walsh and I'm here today for my sister. My sister is in her mid 40s and is multiply handicapped. This bill and how it is implemented will directly impact on my sister, my mother and eventually on my life.

My sister has always lived at home and is cared for on a day-to-day basis by my mother. My parents, a long time ago, decided they wanted to keep her at home with them and be cared for by them. My mother now provides all the care, but her health is failing and of course she is aging. I am the only other family member who lives close enough to provide some support for my mother. My mother's whole life has been caring for my sister, and it will continue to be that way until she passes away.

As my other family members are spread out with their own families and they've expressed clearly that they will not be assuming the care of my sister when our mother passes, I will need to make important decisions on behalf of my sister. Whatever plan is put in place, it will mean big changes for her life.

When my mother is no longer able to care for her, it will be important to move her into a setting, possibly her own home, as she ages. As few transitions as possible is important to her well-being. I am certainly not in a position to provide the high-intensity 24-hour care that she needs, nor would she be comfortable with having her younger brother bathe her and take care of her most personal and intimate cares. Also, we will be growing old together. She will need a residential placement where her needs can be met. I personally will always be involved, but she will need the support of a Community Living agency that is healthy and well-resourced. Before moving into a residential home, I anticipate a period where she will need support in order to have her stay as long as possible in her own home with my mother.

I am here because I am looking at my sister's future.

I believe all people, including my sister, are citizens of this country and province and should be entitled to the care and support that they need to be safe, secure and able to participate in community life as much as possible. This requires good, solid supports. It needs legislation that's going to commit this level of supports as a right and that people are not put on waiting lists depending on how much monies are in a particular geographic region. There should be a clear commitment of the government that these services be provided to those who need them.

I personally began to work in the developmental services field when I was 16 years old. Although I went to school to get my master's in psychology and a nursing degree, it was not long before I came back to working in the developmental services sector. It is where my heart is. I have worked in three provinces: Nova Scotia, Alberta and Ontario. Of the three provinces, I believe Ontario, with all of its challenges, provides the best care. I believe, however, this legislation is moving us in the absolutely wrong direction.

I want to tell a story from my Alberta days experience. I was hired by an agency to work 9 to 5, Monday to Friday, in a family's home. The family needed to take out extra insurance to cover their liability, as the son I was working with had high behavioural needs. The parents had a falling out with the agency and fired them, but asked me to continue. They had choice, so they decided to move their pot of money to another agency that had just been established. I was committed to this family, so I stayed. They transferred their contract to the new agency. The new agency, in turn, bounced two of my paycheques. so the family moved to directly funding my position without agency support. They had their own resources to top up my paycheques, but still I had no benefits. I had no supervisory supports and they had no coverage if I was sick.

When their son threw me down a flight of stairs and I broke my tailbone, the family paid me but needed to hire someone to cover for me while I was recovering for six weeks. I realized that if I was hurt again they could not

afford to pay me. I realized how vulnerable I was and how isolated I was. I did not even have co-workers or supervisory supports to assist in developing new strategies to deal with the behavioural issues. I had to make the difficult decision to leave. These were great people, but I had no ongoing training, no accountability except with the parents, whose perspective was limited to their own experience, and no protection if I was injured.

I still keep in touch with the family, and they are wonderful people. I worked in their home for more than a year. After that, it was a revolving door for them with big gaps where they had no one to provide support. This story repeats itself many times. It does not work having a pool of workers floating out there; they are providing service with no ties to an agency. It does not provide good supports.

The government says it is about choice. My wanting the best for my sister is not a choice, it's an expectation. She deserves it, and it should be her right. Developing a system that does not have the same accountability for everyone who works in it is not the best for my sister. Having Community Living agencies struggling to keep staff is not good for my sister either.

What is best for my sister is a system that ensures dignity and respect and that the planning and services are delivered in a thoughtful, caring and well-resourced way. Choice for my sister is being able to access service to keep her at home as long as possible and then moving into a residential program when it becomes time. Choice is about having the types of supports that fit her needs as they evolve. It is not about whether I get to manage the money or not.

I strongly urge the government to put language into the act that commits them to providing the services to people supported by services to this sector. Waiting lists for people is not the way to respond to need. I urge you not to go down this road of a floating pool of people providing support without the supports of an agency. I've been in both systems, and the direct funding model, in my mind, has more down sides than up. Thank you for your consideration.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We'll begin with the NDP—about a little over two minutes.

1500

Mr. Michael Prue: Thank you; that was an excellent presentation. I think you put it probably more succinctly than I've heard from anyone else in terms of the problem with direct funding. The workers, in your experience, were vulnerable. Was that the experience in Nova Scotia as well as Alberta?

Mr. Marcel Walsh: I never worked in a direct funding model in Nova Scotia. When I worked in Nova Scotia, I was nursing at the psychiatric hospital, and I also worked for a privately run agency in Nova Scotia, where the wages were less than for one to be able to function.

Mr. Michael Prue: Also, and I don't know what your experience was in Alberta, but we know here in Ontario

that the wages paid for people who do not work for agencies tend to be lower, in the \$10 or \$11 range. Those who work in agencies tend to be between \$11 and about \$15, although there is some dispute over that, and then, for those who work in unionized places, we've heard today as high as \$23 in the Ottawa area. Can we expect, if we go with the model that's being proposed, that this will actually drive down wages in the sector?

Mr. Marcel Walsh: I believe so. I believe it will drive down wages and I believe that it would drive down the actual quality of care that we provide to persons with

disabilities.

Mr. Michael Prue: You hit another good point in terms of benefits. I'm not sure whether people who hire individuals privately are required to pay that if it's the government, or perhaps we can ask that question: whether or not they will be required to pay benefits and hospitalization and all of those things or whether it's intended to be a contract service. In Alberta, was it a contract service?

Mr. Marcel Walsh: I started with the agency and I was hired into that role because it was an individualized funding project. The parents became disgruntled with the actual agency that I worked for and they fired the agency. Then they moved to a new agency that had just opened its doors for individually funded projects. After then bouncing my paycheque twice, the parents asked me if I would continue on with them and they would pay me directly. I had no WSIB coverage. I had to pay my own EI. I had to do all of that, so I was more self-employed. And when I was injured—

The Vice-Chair (Mr. Vic Dhillon): Thank you. The

government side, Mr. Levac.

Mr. Dave Levac: Thank you for sharing your experiences. So your belief—I just want to make sure I strongly understand this—is that self-directed or personally directed funding would cause more harm than good and that it would lead to bad situations versus having parents have more say along with their adult children—an opportunity to have a more specifically designed program. Is that what you're saying?

Mr. Marcel Walsh: I'm saying that it could lead to

more problems than good, yes.

Mr. Dave Levac: Okay. Thank you for your opinions. We'll make sure that they're recorded and shared with staff.

Mr. Marcel Walsh: Good. Thank you very much. The Vice-Chair (Mr. Vic Dhillon): Ms. Jones.

Ms. Sylvia Jones: Just one quick question, Mr. Walsh. I think we'll have to agree to disagree on the direct funding model, but I would be interested if you have any thoughts on the personalized planning, individualized planning—if you have seen that either in your own family situation or perhaps in other roles that you've played.

Mr. Marcel Walsh: I have actually taken part in 24-hour planning in Alberta for the individual I worked with, to sustain him with actual direct funding, so I have been a part of that. Where my own family concerns are,

we have not gone down that road as of yet.

Ms. Sylvia Jones: Is that because that has not been available to you or—

Mr. Marcel Walsh: Waiting lists are long, and at this point—

Ms. Sylvia Jones: For individualized planning?

Mr. Marcel Walsh: No, not for individualized planning.

Ms. Sylvia Jones: That was my—

Mr. Marcel Walsh: Okay. No, we have not done that. The Vice-Chair (Mr. Vic Dhillon): Thank you, Mr. Walsh.

NADIA WILLARD

The Vice-Chair (Mr. Vic Dhillon): Nadia Willard?
Ms. Nadia Willard: I have 10 copies of my presentation. My printer ran out of ink.

The Vice-Chair (Mr. Vic Dhillon): You have 15 minutes, and—

Ms. Nadia Willard: I have three portions. I was going to time them, five minutes each. That's all right.

First of all, I want to thank you for giving me the opportunity to speak to you about disabilities that people cannot see. My name is Nadia Willard. My husband and I have raised three children. Two of the three children have learning disabilities: the oldest child, a daughter, and the youngest child, a son. I am very nervous, so please bear with me.

I'm going to talk a little bit about the two children who have the disabilities and then the son who does not. Tina was diagnosed in grade 11 with an auditory memory disability. The psychologist who tested her could not determine how Tina learned and how she managed to get to grade 11 with an aptitude of a grade 7 student. Tina's school marks, at the time, all through her school years, ranged from the high 50s to the mid 70s.

Ian's story is just a little bit different. He's the youngest son and was also diagnosed with a learning disability. His disability was diagnosed in his third year of university. His disability is related to processing speed. This means that he needs a longer time to learn subject material and longer time frames to write exams and reports. His scores were significantly below predicted, based on overall ability.

Prior to grade 5, Ian's marks were H—they were marked on H, which is honours, A, B, C, D—so up until grade 5, he had nothing but Hs, except his penmanship, which was a B. After grade 5, Ian's marks hovered around the high 60s to low 70s.

Our middle child, Nathan, who is the talented, or, "ordinary" child, was not only successful in academics; he was also interested in highly competitive sporting activities. Nathan's marks ranged between high 80s to high 90s, and in grade 12 he was determined to have an overall average of 95. At the end of the year, he graduated with a 94 average.

I want to talk a little bit about our family. I can see ourselves in the lower-middle-class range, economically. The parents are both well-educated: a teacher, and I came

out of nursing. We believed that to give a good foundation for our children, we needed to expose them to a whole variety of activities. We took them travelling; we gave them music lessons, dance lessons, hockey, football, whatever, to get them well-rounded.

Nathan seized all those activities and pursued them with zest. Ian enjoyed them, in part, competitively, but when he realized he could not compete at a high level, he started to withdraw. Our Tina, through all those experiences, learned that the country of Canada was an incredible place to live in. She was very happy, and always in awe of everything that we showed her.

We were highly supportive. We knew that our daughter had a problem, but it was not diagnosed until grade 11. With her, they told us that if she was detected at about a grade 2 or grade 3 level, they could have taught her how to process in order to get into the high academic level. Her IQ is really quite high, but the processing for her was not there.

Ian, socially, was always a bit behind. He always did not fit into the mould and was always marginalized by peers. Also, from grade 1 to grade 5, he was sort of the star pupil. We asked, "Who's the smartest in your class?" and he said, "Well, I am. I know everything." When we asked Tina the same question, she said, "I'm probably the bottom of the heap." These kids knew where they were, academically. After grade 5, Ian would say, "I just don't know why I know, and I hear, and I understand, but I can't get it out." So, there was a problem.

1510

We lived in a small community. Not wanting to rock boats, we didn't pursue a whole lot. We'd go to the school psychologist, whatever. They told us everything was fine with these kids, until the crunch came: They became depressed and they withdrew from the world. They were suicidal, the two, the youngest and the oldest. It behooved me that the health care system, the education system, which my husband was part of—we couldn't get to that point for them to make them feel like they were worthwhile. These children, our children, are not the only ones. I want to be very clear. I do not believe that we are the only ones facing this in life. They have abilities and capabilities, but because of the narrow idea of what they are expected to achieve, these kids pull away and cannot find the courage to get there.

They were marginalized in school. I want to tell you the story about how Tina was marginalized. Tina was in a really high-achieving classroom. In our community there was a private school. Tina was the only child in grade 9 not to receive an invitation to attend the private school. That mortified her—not that we would have ever let her go there, but the idea of exclusion was at that point. It was because her marks were not in the 80s and 90s—part of it. She was a really good athlete, so they could take her as being a fairly decent one there. What came out of that was depression. She isolated herself. She lost belief in herself that she could accomplish anything. Her esteem and image were totally damaged. Her social development at the same time was probably about a year and a half to two years under where all the other kids were.

When she was tested, we were told that she could not go to a post-secondary form of education, that she would never complete it, that she did not have the ability. So we talked about it, and what they told us was that if she took one class, which she did—she got a 92. When buckled up with another two or three classes, her marks dropped to 49 and 52. It was just the process that she had.

So she was unable to get a secondary education. What that did for her was pull her down into entry-level employment of minimum wage, not being able to go to school, not being able to work at a high-paying job, to sort of survive. She existed on minimum wage for a

whole number of years.

When she finally did land a job that was consistent—she was with an employer for about three years—the employer started to pressure her to take a position in management, and she refused. She refused consistently for about eight months. Finally, she decided that she would tell them why she was not going to take the management position. She went to the boss and told him that she had a learning disability and she thought that she could not produce the way a manager could produce because of the disability. Within two weeks, she was fired.

To put all that together, she had to work very hard all the time just to pass. In grade 11, she was functioning at a grade 7 level, and it still baffles us as to how she's learning, because no one ever really figured that out. The end result is, when you are honest, society does not accept the capabilities of an individual. They shunt them out the door.

Ultimately, we hired a human rights lawyer from Calgary, and our Tina became my hero at that point because the lawyer had given her a whole list of reasons of what she could do in terms of making the employer pay, and all she asked for was severance from the date of firing to the date of closure of the agreement. She asked for a good reference and she asked that the employer never do that to anybody else who comes forward with a learning disability. She got that.

Tina is 38. At 35 is when she started to understand and shake the commonality that she did not have abilities and capabilities, that she could do things, that she was capable. Just this past year, in March, she was promoted within Parks Canada from working in campgrounds to the accounting department, and what she tells me now is that they can't believe that she can learn—take no notes and remember everything that has been said, spot errors and find them.

Tina's story now is a success story, but to watch this all go through and watch and know that there are other children who have faced this—early detection is really, really important to help these kids become as productive as they choose to be in their adult life. That's the story of Tina. She, by the way, has not actually, to this date, realized her full potential, what she is truly capable of doing. She is just in that mode of realizing. So in the long run, it is a success story.

I want to talk about Ian. Ian, from kindergarten to grade 5, was an honour student. He knew everything. He

was carefree, kind of. He was stressed at times, but he always worked through it. Grade 5 was when, in the first term, he still had honours and all his marks. The second term, his marks dropped to Ds and one C. We looked at this and we went to the teachers and we asked, "What's going on here?" And the teacher's response was, "It looks like he wasn't trying." We talked to Ian—and I think this may have been an excuse, but in his own little way, it was his way out—and he said, "Everybody bugged me about how smart I was, so I decided not to be smart."

After that second term when everything went down, the third term he brought his marks back up, but they were only Bs and As. But it was, in retrospect, at that point right there where he should have been tested—early detection. We went to the teachers. At the time, the teacher-student ratio in the classroom was like 35 to 1. Ordinary teachers are good teachers, but when you start pulling in children with disabilities, and they have to make—all it takes is four parents to say that there's something wrong with four children. That teacher then has to end up preparing four or five different types of lesson plans to accommodate the curriculum. That is a burden that teachers do not have to give—

The Vice-Chair (Mr. Vic Dhillon): One minute left.

Ms. Nadia Willard: Okay. If there's anything to say, early detection and support mechanisms, financial and personal, to help children not get into—what you're looking at is Bill 77. There's lots of abuse. You could lower that down. I know it costs a lot of money, and whatever.

All right, let's go to the conclusion. In conclusion, I would suggest that the experiences of my children are not significantly different than most children in our society. Our society's desire to nurture success in very narrow terms means that we have marginalized many talented and productive people who are struggling and producing far below their capacity. I commend you for moving this legislation forward and putting health, social services and justice issues into the same legislation. I did not see any significant reference to education and to early detection of disabilities in learning. Any attempt to address disabilities without using an approach that addresses the complete needs of individuals will not be as successful as you think it is.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. The government side, Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your presentation—

The Vice-Chair (Mr. Vic Dhillon): I'm sorry; I'm sleeping here. She's used up her time.

Ms. Nadia Willard: I can answer questions later, if you want.

1520

FAMILY VOICE OF LANARK COUNTY

The Vice-Chair (Mr. Vic Dhillon): Family Voice of Lanark County is next. Good afternoon. You have 15 minutes. If you can state your names for the record, you may begin now.

Ms. Joyce Rivington: My name is Joyce Rivington and I have a co-presenter with me from Family Voice, Cora Nolan. We are parents of young men who are in their early 30s. We belong to a group of families that have children with developmental disabilities. Family Voice assists families to network with one another, with provincial family organizations and groups. We provide support, resources and information sessions to raise awareness of what options can be available and what is currently being offered.

We strive to ensure recognition of the value and contributions of individuals with developmental disabilities in our lives and communities. At this time in history, with the transformation of developmental services, it is critical that individuals and their families are recognized as the true stakeholders—those who live a lifetime with the impact of decisions that directly affect their lives.

We are thankful to this committee for giving us the opportunity to speak here today. Both Cora and I have been very involved in the transformation process and we are really pleased that we're going to be able to present the issues today.

To ensure the lives of individuals with developmental disabilities are free of historic prejudices and injustices, we believe the following areas need to be addressed and incorporated into the new act. We respectfully submit the following:

(1) The act must reflect the true spirit and intent of what transformation of developmental services is intended to accomplish. The purpose of change must be clearly identified in a preliminary description. The proposed legislation does not identify the depth of social change or the language of change to create a new vision and reality for individuals and their families.

We recommend a preliminary description that includes the following section taken from the vision paper In Unison: "Persons with disabilities participate as full citizens in all aspects of Canadian society." With commitment from all segments of society, persons who have a developmental disability will "maximize their independence and enhance their well-being through access to required supports and the elimination of barriers that prevent their full participation."

(2) The title of the act needs to encompass the purpose of the intended change and reflect the building of capacity of people versus service provision. "Services" is not an adequate description. Transformation is not just about services; it is about providing support that enables individuals to have the same opportunities afforded to all citizens.

We recommend "An Act to provide support and services to persons with developmental disabilities, to promote and enhance full inclusion in society, to repeal the Developmental Services Act and to amend certain other statutes."

(3) Stakeholders: For equality to be achieved, equal status must be given to individuals, their families and advocates. Exclusion of families from the lives of individuals with developmental disabilities has created the prejudices and injustices that exist and that will continue

to exist. Individuals directly affected by decisions that are made need to be equal partners at decision-making tables.

We recommend recognition, status and voice be given to all stakeholders.

(4) Person-centred planning, networks of support and independent facilitation are vital mechanisms to promote choice, independence and quality of life.

We recommend person-centred planning, networks of support and independent facilitation be identified and recognized as legitimate support and service options.

(5) Application centres: Too much power is given to centres to assess an applicant's need and develop a service profile with no evidence of individuality, fairness, democracy or right of appeal. The centre appears to inflict another form of control and rule over individuals who are supposed to be set free from institutional bondage. Transformation should not be a move from institutional centres like Rideau Regional Centre to an application centre.

Many individuals with developmental disabilities have benefited from early integrated preschool programs, inclusive education, person-centred planning, special services at home and other forms of individualized funding. To some families, the proposed legislation is already feeling outdated. Individuals are at different levels and different places in their lives. The concept of an application centre does not identify or appear to recognize self-determination and true citizenship rights. As so well expressed by self-advocate the late Pat Worth, "Deinstitutionalization can equate with citizenship only if it means freedom."

We recommend that careful consideration be given to the role of centres—if not eliminated.

Ms. Cora Nolan: To continue:

(6) Individualized direct funding: The act must recognize the need to increase choices for individuals and their family and caregivers who wish a greater voice and more active role in how support and services are provided—when, where and by whom. Quality of life is achieved when individuals and their families are supported to identify their needs, determine preferred supports and have control over required resources to the extent they desire to enable the pursuit of a chosen lifestyle.

We recommend that individualized direct funding be clearly identified as a viable choice for individuals and their families.

(7) Wage equity measures: Individuals and their families who choose individualized direct funding must be given sufficient funds to allow for wages comparable to workers in the service system. Special services at home and the Passport funding initiative are current examples of individualized funding models that provide choice and flexibility but have no provision for cost-of-living increases. There are currently blatant imbalances and unfair practices. Wage enhancement was given to the social service sector employees but not to families with direct funding. A transformed system must be accountable and transparent to individuals and their families.

We recommend the provision of fair and equitable wage and cost-of-living increases for support workers

contracted by individuals and families, comparable to staff of service agencies.

(8) Waiting lists, such as occurred with the Passport initiative, have put an unacceptable and intolerable strain on many individuals and their families in Lanark county and across the entire province. There was no funding for people, but there is money to hire expensive consulting firms. Waiting lists are contrary to the vision of transformation and inhibit individuals with developmental disabilities from participating as full citizens in all aspects of Canadian society, maximizing their independence and enhancing their well-being through access to required supports and the elimination of barriers, such as waiting lists, that prevent their full participation.

We recommend that waiting lists be removed.

(9) Inspection of homes: The infringement on the rights of individuals with developmental disabilities suggests that they do not have the same rights as afforded to the non-disabled population. The suggestion of this type of authority over a fellow citizen is regressive and of an institutional mindset of "different and therefore not having the same right to personal dignity, privacy and respect."

We recommend that safeguards be in place to ensure the rights of individuals with developmental disabilities are not infringed upon by invasion of their homes.

(10) The right to an independent appeal process.

We recommend that the act incorporate a fair, independent and unbiased appeal process.

In summary, as families who have sons and daughters with developmental disabilities, we have tremendous concern regarding the issues identified. Some of the issues are of particular concern because of the potential to have the needs and rights of individuals and their families exploited and/or violated.

We request that before Bill 77 is passed into legislation, careful consideration be given to our concerns to ensure that the voice of people who have a developmental disability and those who care and love them is heard.

The Vice-Chair (Mr. Vic Dhillon): Thank you. There are a couple of minutes each. We'll begin with the government side.

Mr. Khalil Ramal: Thank you very much for your presentation. We listened, basically, to the same suggestions from many different organizations across Ontario; there's no difference. I especially want to take your input in terms of application centres; it seems like the most important one.

Throughout the province in the north, in London, Toronto and the Ottawa area, people came to us and told us, "We are successfully able to manage our jurisdictions." How can we unify the whole system across Ontario without creating a centre combining all of these collective efforts, in your own opinion?

1530

Ms. Joyce Rivington: In our county we have a pressures and priority committee and we've been involved in advocacy for our children's—

Mr. Khalil Ramal: No doubt you do an excellent job in your county and other counties, but how do we connect all these people together? We have to have some kind of mechanism, a centre to connect all these organizations, all these efforts together, in order to have a unified standards system across the province of Ontario.

Ms. Joyce Rivington: The regional offices have been working, listening to people over the years. I think that if there's the opportunity for people to have a better connection with people—the centres aren't going to understand the personal needs because our area is rural, and where are these centres going to be? Also, the term "centre" is a concern because it has a "centre" ring to it. We're sort of putting people in boxes again, centres, and then they're all going to be at the door of centres, the unemployment centre, to get what they need. I think it has that—

Mr. Khalil Ramal: We can change the name if that would help you.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Ms. Jones.

Ms. Sylvia Jones: Let me help you: It has a bureaucratic ring to it.

Ms. Cora Nolan: It's another level of government, too.

Ms. Sylvia Jones: Yes, absolutely.

Ms. Cora Nolan: It gets overwhelming after a while.

Ms. Sylvia Jones: I don't have any questions for you because you've done a very good job of encapsulating the issues that families and individuals have been raising about Bill 77. I appreciate you coming forward today.

The Vice-Chair (Mr. Vic Dhillon): Mr. Prue.

Mr. Michael Prue: Just a question here around your point number seven: wage equity measures. You make the statement, "Special services at home and the Passport funding initiative are current examples of individualized funding models that provide choice and flexibility but have no provision for cost-of-living increases. There are currently blatant imbalances and unfair practices." I don't know whether you were in the room, but about three or four deputations ago, a man gave his example of when he worked in Alberta and had to pay his own bills and the family had to pay it. If the system that is being proposed is to succeed, do you believe that the people who work in the sector have to belong to an organization so they're covered, or do you expect them to be private contractors and subject to what happened to that man?

Ms. Joyce Rivington: I think there could be different types of service. For some people, they might choose a service organization; for others, it may work to hire somebody privately. It just depends where people are. It's just like everybody in this room. We're at different places in our lives. Certainly there are going to be problems with some private contractors or some forprofit agencies because I have heard that: that they are not accountable and they don't have to be accountable to the ministry. But if families are involved—certainly over the years I have had, personally, a lot of success, but then again we have individualized planning and networks of

support and we buy into that belief system and philosophy, so it works, because we have everything that goes along with it. Perhaps for the person you're referring to, it sounded like that family was isolated and they were just hiring on their own and they weren't connected.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much for your presentation.

CONNIE HURTUBISE

The Vice-Chair (Mr. Vic Dhillon): Good afternoon. If you can please state your names for Hansard, you have 15 minutes.

Ms. Connie Hurtubise: My name is Connie Hurtubise, and with me is Amy Parker. You are getting to the end of four very long days, and we thank you for this opportunity to appear in front of you as one of the last presentations of this consultation process.

Let me start with saying that the government of Ontario's stated commitment to revitalize social services and to provide effective supports for vulnerable people in the province is so important. The social service field is the third pillar, along with the first two pillars of education and health. So in 2004, when the government announced that the province would be transforming supports for people who have developmental disabilities to create a coordinated system of community-based supports that is accessible, fair and sustainable, there was huge hope that a long-time-neglected group within our province had become a higher priority on the government's agenda.

Amy and I come here today as front-line workers in the developmental services sector, Amy from an agency in the Ottawa area, and I'm from an agency in the Cornwall area. We are not here representing our employers. We thank you for the opportunity to participate in this consultation process.

The government has had lots of feedback from various sources over the last number of years. Although there are clearly some differences, there is a strong theme of problems related to access. The goal articulated by the government is making the system fair, easier to use and more accessible, having the opportunity to access funding no matter where you live, and having flexible funding which would allow for choice so that decisions could be made for the appropriate supports and services for the individuals. It is what we all want for this sector. Amy and I work in this system, and we have had the privilege of meeting, talking and working together with families and workers, so we are not at all surprised by the findings of the past consultations.

Although we applaud that the government is taking the developmental service sector revitalization challenge on, we are discouraged with the direction of Bill 77.

A consistent message that is heard is that it's hard to access the current system. There are not enough supports, not enough workers, insufficient wages to recruit and retain qualified workers, and all too often we find that there are families to this day still having very hard times.

The 2006 report by Ernie Parsons also sets out these very challenges.

One of the main principles underlying the transformation of developmental services is that people who have a developmental disability are people first, and it is therefore important that we start there. In May 2006, the government suggested that a successful outcome of the transformation will be the extent to which people who have a developmental disability are recognized and valued as being part of their community. Our shared goal is to enable people to live in their communities as independently as possible and to participate as full citizens in all aspects of community life. We believe strongly that this commitment must underpin the legislation. Our recommendation is to include a preamble to the bill that acknowledges the inclusion of all residents as the foundation of our strong Ontario, including persons with developmental disabilities.

We believe that inclusion moves from being an ideal to becoming a reality when we acknowledge the entitlement of persons with developmental disabilities to support services that are available consistently across the province and are based on person-centred planning. Citizenship should serve as a benchmark for legislation as it will give clear value statements and guides for the development of regulations.

In order to meet our shared goal, we believe that the legislation must also guarantee access to service. A mandating of service is crucial in the support of individuals with developmental disabilities and their families. Families, agencies and workers are pushing hard for a system that is proactive and responsive. The reality is that resources have not been provided to do this in a way that fully responds to individual and family needs. When you look at the length of waiting lists and the difficulty of access to supports and services to support individualized plans, it really comes down to creating an infrastructure to support the commitment of supports and services. The response should not be legislation to manage waiting lists.

I can share an experience that we've had within our agency on the waiting lists. We have a respite bed, and one individual was there for a weekend. Her family was so overwhelmed with her care that they just never came back and picked her up; she stayed with us. We've managed to move other individuals around within our agency in order to support this individual. The family was at their wits' ends. She's still with us after 10 years. She's doing great. Her family is very involved in her life, but they basically had their backs against the wall and they couldn't do anything else.

1540

Parents should not have to take this type of action to access service. This situation is not as uncommon as you think. Families needing to access residential beds or independent living supports must often be in crisis before they move to the top of the list. This is heartbreaking.

There has been lots of discussion around the concept of choice. Amy and I fully support the right to have choice, but where's the choice if you're sitting on a waiting list? Bill 77 has entrenched waiting lists right in. Where's the choice if a family must reach crisis in order to be bumped to the top of a priority list in order to receive services? Is it more appropriate, caring and respectful to have families' involvement when implementing a change for a family member than to invoke the change after the death or breakdown of a parent or caregiver?

Also, access to support to keep people in the home or access to community programs is challenging. Funding and supports need to be innovative and flexible. Individuals need to know that their access to services will change over time as their needs change. Choice is not about a funding model; it's about individualized personcentred planning. It is having quality mandated supports and services provided by qualified staff who are supervised.

Too often, Amy and I talk to families who have successfully received funding under the current individualized funding program in order to support their family member, only to find that they cannot find qualified workers or people who are willing to do the job. They must concern themselves with hiring, training and managing staff. They must do without services when the worker they've hired is sick or injured. These situations fail to provide consistency for the vulnerable individuals we strive to support. There can be no choice if the supports and service are not in place in the community to take an individual's plan, and that person's and their family's hopes and dreams, and put them into action.

Individualized funding caters to a few. There is concern when focus on this legislation seems to be an expansion of the funding, rather than committing to a level of services and access. By far, the greatest demand for services are services delivered by community-based agency programs. If the legislation ignores strengthening agencies, then it is a disservice to the individuals with a developmental delay and their families.

Community agencies have a structure to ensure staff are trained, supported and held accountable for service delivery. Supports need to be equitable and people should receive quality, mandated supports across the province. There needs to be a set standard of quality service for all.

What good is recognizing necessary supports and services that a particular individual in the family may require if the community or surrounding area does not have that service? Does this legislation have a plan for providing the necessary supports and services, regardless of where you live in the province? How can the goal of recognizing people who face the challenge of a developmental disability every day, as people first, be faced without a plan to ensure supports and services are mandated for all and will be available, regardless of their geographical area, severity of disability, existing services etc.? Does this bill identify these questions?

Systems are put in place for a reason. They are there to ensure consistency and quality. This legislation further fragments this sector. If the focus of this legislation is about choice, then create legislation that commits to mandate service and fund it so that there is choice of appropriate quality accessible supports and services for individuals with developmental disabilities.

One final point is a concern about individuals needing to be diagnosed by the age of 18 in order to be covered by this act. This means that individuals who are incorrectly diagnosed prior to the age of 18 would not be eligible for service and supports under this act. This is likely an oversight and we urge the standing committee to recommend changes to ensure that this doesn't happen.

We thank the committee for hearing some of our concerns

The Vice-Chair (Mr. Vic Dhillon): There is time for brief comments and questions, about a minute. We'll begin with Ms. Jones.

Ms. Sylvia Jones: Thank you. I couldn't agree more that the diagnosis shouldn't have to occur before 18 in order to have access to services and supports.

You mention that the funding needs to be innovative and flexible, and yet you believe that individualized funding caters to a few. How do you match those two statements?

Ms. Connie Hurtubise: About 80% is community agencies, and the individualized funding is catering to the individuals who aren't part of that.

Ms. Sylvia Jones: But Bill 77 isn't doing a swap. It's legislating that there is the option of direct funding if families so chose, so it is giving, in my opinion, that flexibility.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Mr. Prue.

Mr. Michael Prue: I'd like to thank you for your deputation as well, but just to stay in that same vein in terms of individualized funding, has your agency, community living, given any thought to people who choose to go outside the system as it mainly exists now to hire their own people, whether those people will be employers or whether they'll be hiring a contract person? I know this is difficult, but the gentleman who was here earlier, Marcel Walsh, really made a point of his experience in Alberta where he worked under both. Have you and your agency thought in any way whether families would be invited to employ someone, or whether they would sign a contract? I think there's a difference.

Ms. Connie Hurtubise: I'm not sure how our employer is seeing doing this, because we don't really have too many conversations about that. I do know from experience of a staff member who has a child with a developmental disability who was an active member of our agency. She applied for the individualized funding, so she had to withdraw him from our agency and then turn around and purchase these services. But the money that she received is nowhere near the amount of supports that she received from us when her child was attending our program.

The Vice-Chair (Mr. Vic Dhillon): The government

Mr. Dave Levac: I was interested in hearing your explanation regarding the fragmentation of the delivery of service if the direct funding were to take place. You

believe that it will actually diminish what the agencies are providing and actually not deliver the service that the individual parents are negotiating for. Is that a correct assumption, the way I'm hearing that? There's going to be a diminishment of the service right across the board?

Ms. Connie Hurtubise: I don't know if there's going to be a diminishing of services, but the individuals who are accessing the individualized funding will now be put on waiting lists, and they'll be at the bottom of the waiting lists to receive the services that they are basically already receiving now through the community agencies.

Mr. Dave Levac: So the assumption you're making is that the waiting lists are being created so that it can be a delay in the providing of that service.

Ms. Connie Hurtubise: The waiting lists are already there.

Mr. Dave Levac: Correct. So it's an acknowledgement of the fact that the waiting lists will not disappear, so that no one can get left off, as we would do for waiting lists for operations in health care, or waiting lists for any other services. That entrenchment has taken place in other legislation in order that those individuals who are on a waiting list are not just simply pushed off and forgotten completely.

Ms. Connie Hurtubise: I'd have to get back to you on that one.

The Vice-Chair (Mr. Vic Dhillon): Thank you, ladies.

ACCESS NOW

The Vice-Chair (Mr. Vic Dhillon): Access Now? Welcome to the committee.

Mr. Charles Matthews: I hope I'm going to be able to move most of you as I just almost moved your furniture.

The Vice-Chair (Mr. Vic Dhillon): If you can identify yourself, sir, before you begin. You have 15 minutes.

Mr. Charles Matthews: I'm Charles Matthews. I'm president of an organization called Access Now. We also produce a newspaper. Very basically, I'm going to give you a little idea of who we are and what we're doing, and then give you a little feedback on Bill 77.

1550

Where it all began: Prior to May 10, 2001, 12 of the founding members of our parent organization, Disabled and Proud, had worked on accessibility issues for many years, three of us for over 10 years at that point. I, Charles Matthews, am one of the original co-founders of Disabled and Proud, along with Jean Wyatt. Unfortunately, Jean left us a couple of years ago. I have been working on accessibility and health issues ever since the early 1970s. I have been the president since the inception and continue to stay in this capacity, not only for the group known as Disabled and Proud, but as the publisher and editor of our newspaper, Access Now, as well.

On May 10, 2001, the Para Transpo strike ensured that the disabled community went without service for almost 10 weeks—70 days. A group known as Action Ottawa, which many of us were part of, primarily consisted of

concerned disability activists who successfully held a protest march that basically shut down the rush hour commute home here in Ottawa. That's the most militant we've ever been, by the way. Disabled and Proud was actually taking shape on that day, and within a week, we were officially formed. I invite you all, in a future time, to visit our website, accessnow.ca, and you can read more on this. I will be submitting all of this in writing to each and every one of you.

From June 14 to June 18, 2001, there was a summit here in Ottawa called the Ottawa 20/20 summit. This summit was a result of a dynamic process where citizens, in collaboration with city staff, articulated a shared vision for the new city of Ottawa, and they called it Smart Growth, referring to the forms of development that enhances the quality of life in communities, complements functions, ecosystems, and uses tax revenues wisely. This summit examined the concept of a smart growth and how it could be applied to Ottawa. It also explored the many challenges that wait ahead, including everything from transportation to economic growth to affordable housing, arts and culture, as well as our evolving social needs.

It was at this summit that Disabled and Proud started its work at both the municipal and federal levels. We also were one of the few—about 10 in Ottawa—working along with David Lepofsky on getting an ODA committee formed, based on the Liberal/Tory report from the 1990s. There was no information that was reliable in mainstream media for news on accessibility issues, so we at Disabled and Proud decided to start a newspaper called Access Now. This started in 2002. There are copies all over the room, which we're more than glad that you help yourselves to, and you can see a little bit of who we are and what we do at all three levels of government.

Access Now is the name of our newspaper and, as you know, our parent group, Disabled and Proud, which has been leading co-ordination for seniors and disabilities who independently advocate for accessibility for all. We are inclusive and supportive of each other, and not only for our benefit but also for the benefit of all who strive for independent living and the right of accessibility. We communicate with each other in many ways: through face-to-face gatherings, meetings and technologies such as the telephone and Internet. Our goal is to make the best use of all our resources and our strengths. We support each other to be more empowered, better informed and aware of our issues, as well as unique and innovative solutions toward daily survival.

We strive, through sustainability funding, to be viable. In a perfect world, Access Now may not need these funds; however, we're here for as long as the mainstream media does not report on what we need to know about and as long as those with disabilities and seniors alike need each other's friendship and support.

I personally have worked with the minister, Madeleine Meilleur, not only at this time but also back when she was a councillor in the city of Ottawa and chair of the transportation and transit committee. A lot of the transit issues that started going really forward and ahead in this city were developed from that first transportation

committee between the years 2000 and 2003. Another member here was also on a lot of those boards, and he did a remarkable job as well.

Madeleine Meilleur was also the founding councillor for the accessibility advisory committee here in the city

of Ottawa. This was all done prior to the ODA.

The next part of my presentation, which is going to be forwarded to you, is long-winded, and basically it's all your words from the community website, so you'll have to agree with all the facts and figures in the next four pages—word for word, by the way. So I continue with my presentation. These words are from the communication centre of the ministry, and what we're doing here today. The reason why I'm skipping over this is because I want to allow for all my points to be put forward today.

We at Access Now agree that the current development disabilities act was outdated and Bill 77 is indeed a step forward. Our major concern is that the replacements and new systems will be put in place but will be factual and not just window dressing, as we've seen from previous governments. The last government, Eves-Harris, promised, when they told everyone to go home early from the hospitals, that the government will be putting in place home support services so it may help with the bed shortages in the hospitals. When our clients did go home with these so-called supports at home, they quickly learned that these supports were not a reality at all. Many wished they had stayed in the hospital, and many more had to be re-hospitalized or even returned with acute care needs because of miscommunication in the supports being in place.

We also needed accountability. One of the major concerns we get from our clients—or readers, in this case—is the lack of accountability. One of the major services that a person with developmental disabilities needs is a trustee, as an example. Currently, we have many readers who have contacted us over the last couple of weeks to voice their concerns that they've not even seen an income statement for the last four or five years. So when they have a trustee who is taking money and then paying it on their behalf, shouldn't there be some accountability there? Even when requests for funds are put into the trustees' hands, direct funding may be the way to get the trustee to account for their services.

The only negative we're hearing about this bill is from the current suppliers of the services. In fact, some of them may be losing their jobs. Examples are in the letters you've all seen from OPSEU in regard to the fact that employees are going to be losing benefits, they're losing their jobs, so on and so forth. Well, my answer to all that is very basically, if they're doing the jobs in the right place, then people wouldn't need to go to other services. But with this bill, it basically gives additional services for direct funding and does not take away from those services, so any of the agencies out there that are doing a proper job don't have to worry.

The general feeling is great. Maybe other sectors will get the message that they should be doing the best they can for their clients and not what's best for keeping their clients dependent on a broken service. The last point that we want to emphasize is that we should not be going from legislation that segregates all to assist them and then come up with another legislation that basically is going to put everybody in a totally integrated environment without the proper supports, so they won't reach their full potential. Last but not least, we want them to look to the organizations that truly help their clients and go that extra step in supplying services so desperately needed.

Now, I do have some comments that I'd like to make at this time, or I'm open for questions. I'd like to make some comments about some of the things I've heard here today that were either not factual, or misleading or something in one way or another. First of all, we're giving you true feedback here because we do not represent an agency that is getting paid from the government to do different services in any way, shape or form. The only funds that we get from any kind of government are from advertising in our newspaper, people who support us, basically. When our readers come to us—we're all volunteers, so none of us is making a single dime, including myself. We've been doing this since the 1990s and we're all volunteers, so any kind of personal gain is not being recognized here.

Our clients come to us because they sometimes have a lot of problems with the systems that are out there. A good example is one of our clients: "I can't get much help from the mental health societies and organizations that are out there. But I want to tell you, Charles, that Y's Owl has been supporting me for two and a half years, and they don't have to, but they're doing a great job." That's a pat on the back to Y's Owl.

1600

One of the problems that we're having with a lot of the clients who have developmental disabilities is with the system the way that it's set up right now with OCAPDD. One of the problems and the most major problem that they're having here is with regard to the follow-up trustee. Once they wean a person off of a certain part of their service, they don't contact them ever again. Follow-up is very important, especially with developmental disabilities.

One example of this is a person who had a doctor. They have a cognitive disability where they have a lot of problems getting to a doctor. So they used to pick them up at first, take them to the doctor, then wean them onto the bus service and eventually have them take the bus themselves to the doctor. Good enough. About a year later, that person lost that doctor and needed a new doctor. She said, "Can I get some help?", and they said, "Well, we showed you how to get to the doctor." It's a different doctor. This person should have no question, in any way, shape or form that OCAPDD could have helped this person once again.

Another thing is in regard to the legislation. What we find is that a lot of organizations around there have been around for a long time, and at one time, they were very, very good at what they did because they were the only ones out there doing some things. A good example of that is in DPCR, Disabled Persons Community Resources,

which basically is being used as a staffing function by the city because they've done a great job for many, many years; they continue to do so. But the people there are dependent on a person being dependent, because that way they keep their jobs. When everybody comes out and starts doing things, like volunteers in our case, where we want things accessible and that's our goal, we get a hard time sometimes.

Some of them, as an example, have also been doing a good job for a long time before, but they've kind of outgrown that and are basically empty shells right now. This is where I want to emphasize that this standing committee—and also the Ontario Disability Support Program Act, as well as the ODA—should start taking a look at organizations that are really out there and actually doing the front-line work, that are actually going out there and helping the people who need the help.

One good example of this is when you're looking to the community for legal advice. One organization that's doing a great job—and you heard from them today—is ARCH. I suggest that the committee and subcommittee, when you're setting up the regulations, look closely and work closely with ARCH, because that's where their interests are. There are other organizations out there that raise millions of dollars, and they are basically empty shells. One good example of that—I don't usually like to badmouth, but in this city and across the province as well, there's an organization that's called Reach, and it's nothing more than an empty shell. Meanwhile, millions of dollars are funnelled into this organization, and the actual work being done on all kinds of legal advice, as far as disability work goes, is by ARCH itself.

The Vice-Chair (Mr. Vic Dhillon): One minute.

Mr. Charles Matthews: One minute? Okay. To wrap up: Very basically, listen to the voice of the disabled community. Keep on doing what you're doing with Bill 77—but I do want to emphasize the fact that you have to put in what is going to be available once this act is put into place: what kinds of systems are out there and also what kind of legislation can guarantee the people that they will have an effective act with the supports behind it to actually make it possible, not like in the physically disabled community with home care support, where it was not put in place. The direct funding under the ODSP Act in regard to home care and all of that: We want to make sure that the developmentally disabled basically get that support as a reality rather than something that's retractable.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much, sir.

ONTARIO ASSOCIATION OF RESIDENCES TREATING YOUTH PARTNERS IN PARENTING

The Vice-Chair (Mr. Vic Dhillon): The last deputation is from the Ontario Association of Residences Treating Youth.

Ms. Christine Rondeau: I'm Christine Rondeau, representing the Ontario Association of Residences Treating Youth, which is a provincial organization for private residential care and treatment providers. Many providers also provide support to adults with developmental disabilities. As well, I am a co-owner of two private agencies here in Ottawa, one named Partners in Parenting and the other named ACEworks. In total, our organization serves over 80 adult clients daily who will be directly affected by Bill 77, as well as another 20 children in the child welfare system who will be affected by this bill in the next few years. Therefore, sustainability of this bill is vital.

It is my pleasure to be here today to comment on Bill 77. The introduction of this bill builds on the government's commitment to make Ontario inclusive for people with disabilities, and as such, we support the sensibility of this bill. We are aware of many of the concerns presented so far and we want to highlight those concerns which we have not yet seen expressed.

In this bill, application centres are tasked with managing the client's case: assessing the condition, determining funding, as well as providing the service to the client. In effect, it is operating a multi-service centre. Currently, Prescott-Russell is the pilot project for the amalgamation of child welfare, developmental services and child protection under one umbrella system of care for children and adults.

Similar systems are being implemented in Lennox and Addington and possibly Niagara Falls. Giving one party or one organization the ability to be responsible for assessment, treatment, funding and accountability is absolutely not the best practice or the best model for the persons in care, who are by definition vulnerable, either because they are children with CAS or because they are developmentally challenged as per the DS sector.

In Bill 77, the proposed model replicates exactly what is flawed in the child welfare system. With the relationship of the CAS responsible for the needs of children as their guardian balanced against service, they can provide in-house versus seeking specialized, often more appropriate services.

Our recommendation: Assessment, funding allotment and service provision should be separated. This would allow for the accountability to be judged, determined and monitored by independent parties in each discipline within the service continuum. Third-party scrutiny of each role would be ideal. Resources would be funded directly via MCSS or a third-party agency—for example, a community network service. An example of this model is: The case management agency holds the case, the service agency provider holds the care, and the third-party agency monitors resources, standards, accountabilities and outcomes of all cases.

Another of our policy recommendations to the ministry is third-party accreditation. None of the CAS residences are accredited, and this is a concern. As a sector, we have begun the process and can speak to its exactitude and the demanding and thorough investigations

involved in accreditation. Accreditation standards were not detailed in Bill 77, but accreditation is necessary as a quality control mechanism. Our recommendation is to insist that all service providers and access centres be accredited and ensure that accreditation is carried out by a distinct third-party group, rather than a peer review system, which leaves the system open to abuse.

Many important details on how Bill 77 will actually operate on the ground are unknown and really must be specified in regulation and/or policy. One of the enormously significant details of concern are the qualifications of the persons conducting assessments and the methods and criteria they employ. Assessment methods are of immense concern to families and to the professionals and paraprofessionals who provide services to individuals with developmental disabilities.

Our recommendation is to establish clear specifications of the qualifications for the professionals who will be providing assessments. We believe these criteria should be set centrally and not vary substantially across the province. However, we understand that there will be some cultural concerns that may be reflected in the composition of the staff given prevailing geography.

OARTY is concerned with sections 26 to 28, which allow for the inspection of premises of services. We are not concerned with the inspections per se; we frankly encourage them. What OARTY believes is that more parties watching everyone is a better system. Presently, the transfer payment agencies providing care to adults do not get scrutinized in this way. In fact, there is also no outside case management.

1610

The children's model of inspection should not be replicated, as it does not work in a meaningful way to ensure centrally set standards are being applied. This is due to the deficits in the inspectors and in their training.

Recommendation: Implement a uniform skill set across the province for inspectors and a uniform code of conduct to be determined centrally.

Section 22 notes that the service agencies shall comply with prescribed requirements with respect to the operation of a service agency, including any requirements relating to the composition of its board of directors. The director may appoint inspectors who are able to set standards for service providers and their boards of directors. There are a significance number of private providers that offer a much-needed service but do not have boards of directors. Therefore, these operators may be excluded from participating in the developmental services framework as conceived in Bill 77. Is it the intent of this bill to exclude these resources?

Recommendation: Consideration is to be given to service suppliers of all sizes for the efficacy of the legislation.

The private sector is currently providing a large portion of services to adults, and it is vital to continue to support the private sector where clients and their families purchase services that are needed. The private sector supports programs without capital costs and is able to work directly with families and clients to provide pro-

grams that clients and families need and want in a timely manner.

Thank you for taking the opportunity to allow me to participate. It is a privilege to be here to speak for those who cannot speak for themselves.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Mr. Dave Levac: On a point of order, Mr. Chair: Given that recommendations were specific, is there a chance that we can get a hard copy for the committee?

Ms. Christine Rondeau: Yes, I will do that.

Mr. Dave Levac: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We'll start with the government side.

Mr. Dave Levac: Yes, thank you very much for your presentation. You had indicated earlier, and I just need some clarification: Partners in Parenting is one of the groups—what's the second group that you represent?

Ms. Christine Rondeau: ACEworks. It's a private day services program for adults with developmental disabilities here in Ottawa.

Mr. Dave Levac: And your other concern I picked up on—not that I didn't hear the other ones, but the main concern I picked up on was the fact that you had indicated that according to your reading of Bill 77, it indicates that if some of the organizations that you pointed out do not have a board of directors or a director, they would not be qualified to purchase services by an independent.

Ms. Christine Rondeau: That's a concern of the small organizations that perhaps only run one or two facilities like a group home, where there is no outside board, yes.

Mr. Dave Levac: Okay. And you believe that the bill, the way it is written, specifies that, which would negate them.

Ms. Christine Rondeau: It does talk about the board of directors and is vague about smaller—

Mr. Dave Levac: I'll point that out to staff to make sure that we can clarify. Thank you.

The Vice-Chair (Mr. Vic Dhillon): Ms. Jones?

Ms. Sylvia Jones: I don't have anything to add. Thank you very much for your presentation.

The Vice-Chair (Mr. Vic Dhillon): Mr. Prue?

Mr. Michael Prue: The question goes to me—the very last one of the whole thing.

I was intrigued because you were the first person I heard who talked about accreditation and quality control. You obviously think that's necessary for the entire service sector. What about accreditation and quality control for private hires, contracts, employees, where people now have the option to try the other side?

Ms. Christine Rondeau: I think it would probably be a difficult thing to do, to have a private contractor accredited, but I do feel that private contractors could fall under private agencies or other agencies that are accredited and therefore be looped into accreditation.

Mr. Michael Prue: You do believe, though, that they should be accredited as well.

Ms. Christine Rondeau: I would think so. I would think that at some point—it depends maybe on the level of service or level of support, but in-home support services, which are basically what they're looking at, need to be challenged. The amount of professional training that's given to those people is very slim, so it would be good to bring it up a notch, for sure.

Mr. Michael Prue: Thank you so much.

The Vice-Chair (Mr. Vic Dhillon): Thank you, ma'am.

Mr. Yasir Naqvi: On a point of order, Mr. Chair: I believe in an earlier deputation a presenter mentioned that we are currently located in Minister Meilleur's riding. I just wanted to correct for Hansard that we are currently located in the riding of Ottawa Centre, which I have the privilege of serving. I just want to make sure that is properly recorded in Hansard.

The Vice-Chair (Mr. Vic Dhillon): You're some host. You're telling us on the last—

Mr. Yasir Naqvi: And I also wanted to take this opportunity to thank the legislative staff for their excellent work over the last four days in making these hearings very accessible and effective for all of us. On behalf of all the members, I'd like to thank the staff for their efforts.

Mr. Michael Prue: Mr. Chair, before we conclude, I have another request to the beleaguered and overworked research officer. One of the deputants today, Marcel Walsh, talked about his experience in Alberta with a system which allowed for him to be both an employee at one point and a contract employee at another. I'm just wondering whether the researcher, in her excellent role, could tell us whether or not the legislation that is being proposed here on that issue is identical to the Alberta one and whether or not people here could be either an employee or a contract employee.

Mr. Dave Levac: Further to that, I have heard over the week something that is tweaking my thought process towards finding this out: There seems to be a very large number of agencies, organizations and companies that provide services in this area. I don't know them all. I'm wondering if we could try to get a master list created of those groups and organizations that provide that type of help. I know that's onerous, and I hate to ask that, but I think there would be concurrence to try to find that out, because they will all be affected by Bill 77 in one way or another. There's been some discussion about negative and positive influence, so I'd like to see if we could get a master list of those organizations and groups that are, I think to be fair to research, registered and/or licensed in some manner. Am I diminishing that in some way?

Ms. Elaine Campbell: This may be something we would talk to ministry staff about. We'll get clarification on that.

Mr. Dave Levac: Ministry staff for that, please. That's great.

Ms. Sylvia Jones: One final request of research: Regarding Mr. Kinsella, there seemed to be some debate and confusion about whether relatives would receive any financial support if they looked after a relative. I wonder if we could get research to clarify how Bill 77 sets that out and maybe how it is currently done.

The Vice-Chair (Mr. Vic Dhillon): Okay. Just some notes before we finish: The written submissions are due by August 12 at 5 p.m.; amendments are to be filed with the clerk by September 3 at 5 p.m.; clause-by-clause consideration of Bill 77 will be September 8 and 9.

The committee is now adjourned.

The committee adjourned at 1617.





Continued from overleaf

Mr. Marcel Walsh	SP-276
Ms. Nadia Willard	SP-278
Family Voice of Lanark County	
Ms. Joyce Rivington; Ms. Cora Nolan	
Ms. Connie Hurtubise	SP-282
Access Now	SP-284
Mr. Charles Matthews	
Ontario Association of Residences Treating Youth; Partners in Parenting	SP-286
Ms. Christine Rondeau	

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke-Lakeshore L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)

Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Joe Dickson (Ajax-Pickering L)

Mrs. Christine Elliott (Whitby-Oshawa PC)

Ms. Sylvia Jones (Dufferin-Caledon PC)

Mr. Phil McNeely (Ottawa-Orléans L)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Michael Prue (Beaches-East York ND)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer, Research and Information Services

CONTENTS

Friday 8 August 2008

Services for Persons with Developmental Disabilities Act, 2008, Bill 77, Mrs. Meilleur / Loi de 2008 sur les services aux personnes ayant une déficience intellectuelle,	
projet de loi 77, M ^{me} Meilleur	SP-227
Autism Ontario, Ottawa chapter	SP-227
Ms. Heather Fawcett	
Community Living Association (Lanark County)	SP-229
Mr. Greg Bonnah	SP-231
County of Lanark Developmental Services Providers Committee	SP-233
Community Living Associations of Dundas, Stormont and Glengarry counties	SP-236
Mr. Rick McCabe	SP-238
Community Living Upper Ottawa Valley	SP-240
Families Matter Co-operative Inc	SP-243
Provincial Ad Hoc Coalition on Bill 77; Family Alliance Ontario	SP-245
Brockville and District Association for Community Involvement	SP-247
Parents Reaching Out, Dundas county and area	SP-249
Ontario Agencies Supporting Individuals with Special Needs	SP-252
LiveWorkPlay Inc. Ms. Jennifer Harris	SP-254
Plainfield Community Homes Mr. John Klassen	SP-256
Ms. Linda Kinsella	SP-258
Ms. Diane Rochon	SP-260
Mr. Kevin Kinsella	SP-261
Ottawa-Carleton Lifeskills Inc. Mr. David Cameron; Ms. Jocelyne Paul	SP-263
New Leaf Link	SP-265
ARCH Disability Law Centre	SP-267
Tayside Community Residential and Support Options	SP-269
People First of Carleton Place and District. Mr. Kory Earle; Ms. Manon Lépine	SP-271
Ontario Public Service Employees Union	SP-273



SP-12





SP-12

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Thursday 28 August 2008

Journal des débats (Hansard)

Jeudi 28 août 2008

Standing Committee on Social Policy

Review of the Personal Health Information Protection Act. 2004

Comité permanent de la politique sociale

Examen de la Loi de 2004 sur la protection des renseignements personnels sur la santé

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Thursday 28 August 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Jeudi 28 août 2008

The committee met at 0903 in committee room 1.

The Clerk of the Committee (Mr. Katch Koch): Good morning, honourable members. It is my duty to call upon you to elect an Acting Chair. Are there any nominations?

Mr. Peter Shurman: I nominate the member for Etobicoke-Lakeshore. Laurel Broten.

The Clerk of the Committee (Mr. Katch Koch): Are there further nominations? There being no further nominations, I declare the nominations closed and Ms. Broten elected as Acting Chair.

SUBCOMMITTEE REPORT

The Acting Chair (Ms. Laurel C. Broten): Thank you for joining us this morning as the Standing Committee on Social Policy reviews the Personal Health Information Protection Act, 2004, pursuant to subsections 75(a) and 75(b) of the act.

I'd like to call upon one of the members to provide the report of the subcommittee on committee business dated Wednesday, June 25, 2008. Ms. Jaczek.

- Ms. Helena Jaczek: Your subcommittee on committee business met on Wednesday, June 25, 2008, to consider the method of proceeding on the review of the Personal Health Information Protection Act, 2004, pursuant to subsections 75(a) and (b) of the act, and recommends the following:
- (1) That the committee meet in Toronto for the purpose of holding public hearings on August 28, 2008.
- (2) That the clerk of the committee post information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.
- (3) That interested people who wish to be considered to make an oral presentation on the review should contact the clerk of the committee by August 8, 2008, at 5 p.m.
- (4) That the clerk of the committee provide a list of all interested presenters to the subcommittee following the deadline for requests.
- (5) That the Information and Privacy Commissioner of Ontario be invited to make a presentation to the committee.
- (6) That the deadline for written submissions be August 28, 2008, at 5 p.m.
- (7) That the committee meet on September 4, 2008, for report writing.

(8) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

The Acting Chair (Ms. Laurel C. Broten): Any discussion with respect to the subcommittee report? Seeing none, shall the subcommittee report pass, as reviewed by Ms. Jaczek? Carried.

REVIEW OF PERSONAL HEALTH INFORMATION PROTECTION ACT, 2004

Review of the Personal Health Information Protection Act, 2004, pursuant to subsections 75(a) and 75(b) of the act.

INFORMATION AND PRIVACY COMMISSIONER/ONTARIO

The Acting Chair (Ms. Laurel C. Broten): We are now ready to hear our first deputant. I'd like to call to the front of the room, please, the Information and Privacy Commissioner of Ontario, Dr. Ann Cavoukian.

Welcome, and thank you for joining us this morning. Perhaps as you take your seat you can start by letting us know who has joined you, and I'll let you know that you have 20 minutes to provide your remarks to the committee this morning.

Dr. Ann Cavoukian: Thank you very much for your time and attention.

Let me begin by thanking the Standing Committee on Social Policy for inviting me to make a presentation here today during the review of the Personal Health Information Protection Act. I'm joined today by my two assistant commissioners, Ken Anderson and Brian Beamish, and of course I could not carry out any of my functions without them; I'm very, very fortunate to have them with me.

As you are aware, I'm charged with the responsibility of overseeing compliance with PHIPA, the Personal Health Information Protection Act. This includes reviewing, investigating and adjudicating complaints that individuals have been denied access to their health records; complaints alleging that health information has been collected, used or disclosed in an unauthorized manner, contrary to the act; and a number of other areas.

It also includes conducting reviews and investigations at my own initiative, in the absence of a complaint, where I have reasonable grounds to believe that a person has contravened or is about to contravene the act.

I have to tell you, I'm not here only in my capacity as a commissioner; I am also, I think, uniquely qualified to speak to you about PHIPA today because I'm a patient again and again. I seem to find myself in and out of hospitals with some regularity, and I just had some surgery a few weeks ago. So I feel I am uniquely qualified to speak to this subject, because I think we can't lose sight of the fact that the patient is at the heart of this legislation, and the needs of the patient. So I will speak to you both as a patient and as a commissioner.

After almost four years of discharging my responsibilities under this act, I can personally attest to the fact that the act clearly appears to strike the right balance between protecting the privacy of individual patients with respect to their health information and the equally important objective of ensuring the continued delivery of effective, efficient and timely health care.

0910

I always say, because I do have a focus as a patient, that first you focus on delivery of health care services and then you wrap a very strong layer of privacy around it. You must have both, but I assure you, when you're at emergency as a patient, your first concern is the delivery of health care services. And this act strikes the right balance. Overall, in my view, the act is working very well, and does not require significant amendments.

The act was the culmination, as you know, of extensive consultations with a broad range of stakeholders, including patient advocacy groups, regulatory colleges, health care providers, health care associations, professionals and researchers. The Legislature of Ontario should be applauded for its efforts in this regard, and for ensuring that stakeholders continue to have input by requiring an open and transparent regulation-making process. This success of the act can, I think, largely be attributed to this invaluable input from all stakeholders.

You should know that when the act was first proclaimed, my office met with all the regulatory colleges and the professional associations, and recently, in the last couple of weeks in preparation for this meeting, we met with a number of them. We met with the College of Physicians and Surgeons and the Ontario Hospital Association. We spoke to lots of stakeholders. We wanted to prepare. I think that kind of ongoing consultation is very important.

Another reason that the act has been able to balance the competing interests is because it is a consent-based statute. It gives individuals and patients control over when, whether and under what circumstances their health information will be collected, used and disclosed. It differentiates among the circumstances in which express consent of the individual is required, the circumstances in which consent of the individual may be assumed to be implied, and the circumstances in which health information may be collected, used or disclosed without consent.

I'm a big advocate of the implied consent model of the act. People are sometimes surprised at that because I am the privacy commissioner. But as I said, as a patient, I assure you, when you're in need of health services, the last thing you want to chip away at your invaluable time with your health care provider are unnecessary obstacles such as seeking express consent when it's not necessary. It's clear: You're there to see your health care provider, and you are disclosing the information for purposes of getting health care. It can be easily implied under those circumstances.

In general, the act permits health care providers to seamlessly share health information with one another because of this construct for the purpose of providing health care to an individual. These provisions have come to be referred to as the circle of care. Although "circle of care" is not a defined term in the act, it is a very useful term for understanding how things work under the act. Unless an individual expressly indicates otherwise, within this trusted circle of care, health care providers may provide and share health information without the explicit consent of the individual, thereby ensuring the effective, efficient and timely delivery of health care services. However, in general, outside of this trusted circle, health information may only be shared with the express consent of the individual. For example, express consent is required prior to sharing health information with what you might think of as people outside of the circle of care: insurers, employers, market researchers. Clearly, you wouldn't envision them as being part of the circle of care of your health care providers. There, strong, explicit consent is required, and should be.

Further, the act recognizes that there are certain circumstances where the greater public interest requires that health information be shared at times without consent; for example, where it is necessary to eliminate or reduce a significant risk of serious bodily harm to a person or group of persons. You think of the SARS epidemic, you think of those situations.

It's also important to point out that Ontario's act has served as a model for health privacy legislation across Canada, including the recently introduced Personal Health Information Act of Newfoundland and Labrador.

Further, in a recent report of the New Brunswick task force on personal health information, to whom I spoke a few years ago, their mandate is to provide recommendations on health privacy legislation to the Minister of Health for New Brunswick. The task force stated that it "regards the Personal Health Information Protection Act of Ontario as the 'gold standard' among PHI privacy statutes in Canada." They recommended that the drafting of their legislation in New Brunswick be guided principally by our act here in Ontario. I think we can all be very proud of that and I think that really stands very loud and clear as an example of what an excellent act we have here.

In addition, Ontario's act is the only health privacy legislation in Canada that has been declared to be substantially similar to the federal act, the Personal Information Protection and Electronic Documents Act. This happened a number of years ago, since 2005. You can't underestimate the importance of this. The effect of this determination is to exempt health care providers in Ontario from the application of federal privacy rules that were, first of all, never designed to address the unique needs of the health sector. Can you imagine that if we didn't have this substantially similar designation, health care providers in Ontario would not only have to follow PHIPA, they'd have to somehow follow the federal law as well, which is competing with PHIPA? It would have been a nightmare. You can't have two different sets of rules. Fortunately, we don't have that problem.

One of the reasons our act was declared to be substantially similar to the federal legislation is the fact that it is a consent-based statute. I can't emphasize the importance of that. Integral to the concept of consent is the notion that individuals not only have the ability to consent, but also have the ability to withhold consent or withdraw consent. The provisions of our act that provide individuals with the statutory right to withhold or withdraw consent to the collection, use or disclosure of their health information have come to be referred to commonly as the lockbox provisions, although, once again, the term "lockbox" does not appear in the act.

The statutory right of individuals to lock their health information, however, is certainly not absolute and is subject to very important exceptions. In particular, individuals cannot lock their health information where the effect would be to prohibit or restrict their health care provider from recording health information that is required to be recorded by law or by standards of professional or institutional practice—for example, standards published by regulatory colleges. Further, individuals cannot lock their health information where the collection, use or disclosure is otherwise permitted or required by the act to be made without consent—for example, where there are reasonable grounds to believe that the disclosure is necessary to eliminate or reduce a significant risk of serious bodily harm.

I'm going to acknowledge that this lockbox requirement has presented some challenges for legacy systems—the older information systems of electronic health records—that were designed unrestricted access across the board within health care facilities. However, having said that, my office has taken a very flexible approach to the implementation of this lockbox provision. Specifically, I've indicated again and again, and in a fact sheet that my office has actually issued on this topic, that health care providers may achieve compliance with the lockbox provisions through a wide variety of means. You can do it manually, you can do it through policies and procedures and you can do it through paper-based processes and solutions that you set up, not just technology-related ones. So you haven't been required to accept the very costly burden of changing your legacy systems. You don't have to do it. If you want to do it, of course that's your choice, but it's not been imposed by my office. I think this is a sensible approach because the number of cases that arise are very few. Why go to all this time and trouble and cost unnecessarily? In due course, the systems are going to be updated anyway. Change them at that point, but in the meantime, deal with it. Find a paper-based solution, and we have a number of examples we can give you of how that has proved to be very successful. Health care facilities are not required to go to the enormous expense of retrofitting their legacy systems to manage this lockbox requirement. Since there have been very few instances where individuals have actually exercised their right to lock their information, such requests can effectively be managed outside of these legacy systems.

I should also note that over four years of experience with the act, I'd suggest that the ability of health care providers to comply with the lockbox provisions has not been a significant issue. Of the roughly 1,000 complaints that my office has dealt with to date, only a handful—less than five—have been based on the failure of a health care provider to comply with a lockbox request, and of that handful, all of them were resolved to the satisfaction of both the individual involved and the health care provider through informal discussions and mediation provided by my office. It's not a problem. We can deal with it.

0920

If the Legislature of Ontario were to alter these consent provisions of the act in any way, including eliminating or modifying the lockbox provisions, it would jeopardize the designation of our act as being substantially similar to the federal statute that I mentioned earlier. As a result, health care providers in Ontario would be required to not only comply, as I mentioned, with the privacy rules in our act, but also the privacy rules in the federal legislation, which, as I've also indicated, were never designed to address the unique needs of the health care sector but rather to address the needs of electronic commerce. This would result in a great deal of unnecessary confusion. We don't need to go there, so I just wanted to draw attention to that.

I also want to emphasize to the committee that, since the act has come into effect, health care providers have largely embraced their obligations under the act. To date, my office has investigated over 960 complaints under the act. However, on only five occasions have I had to resort to actually issuing an order. I often joke about how we fought very strongly for having order-making power, and then I don't go and use it all the time. But that's the whole point: When you have order-making power, you have the strength that you need to make sure that the act will be complied with in the way it should be. You don't want to abuse that right. When you need to do it, you do so, and we've used it five times. It's a great testament to health care providers' willingness to work co-operatively with my office in investigating and adjudicating complaints. A large percentage of cases that come to us are self-reported cases from hospitals and health care providers, much to their credit, and we work with them very closely.

My office has always stressed what I call the three Cs: consultation, collaboration and co-operation. That's how we try to deal with health care providers, preferring to resolve complaints informally through mediation rather than the issuance of orders. On the five occasions when we have issued an order, it was not because the health care provider needed to be forced to comply with their obligations under the act. Rather, it was because the complaints involved potentially systemic issues, very broad issues that, in my view, other health care providers would benefit from the guidance provided by issuing an order. It sets the standard of practice, if you will, and you want to disseminate that very widely.

For example, one of my most recent orders involved an investigation relating to a stolen laptop belonging to a hospital which contained the unencrypted health information of 2,900 patients. In this order, I found that the hospital had contravened the act because reasonable steps had not been taken to ensure that this information was protected against theft, loss and unauthorized disclosure.

I further held that if health care providers felt that they had to store identifiable health information on mobile devices such as laptops or BlackBerries, then you just had to encrypt the information and code it in a way that, if someone stumbled on it or accessed it in an unauthorized manner, they would get garbage. So if you take health information outside of your health care facility in a mobile device, you either encrypt it or you don't take it, full stop; those are the choices. I issued an order there. Again, the hospital was wonderful. They cooperated, they absolutely said they would do this, but I wanted the message to go out very loud and clear to everyone.

Finally, I'd like to conclude by very briefly discussing the amendments to the act that are being recommended by my office and which have been circulated to committee members earlier today. My proposed amendments to the act have three purposes, and they're very minor in nature. First, they aim to ensure that the proper balance continues to be struck between the rights of individual patients with respect to health information and the delivery of effective, efficient and timely health services. Second, they attempt to ensure that the exercise by individuals of their rights under the act continues always to be respected. Third, we want to ensure that my office has the powers necessary to independently review and adjudicate complaints under the act.

In particular, the amendments requested are designed to guarantee the continuity of individual rights and the continuity of health care providers' obligations under the act upon changes in their practice, such as bankruptcy, insolvency or the cessation of their practice. Both my assistant commissioners and I would be happy to tell you the details of some of these. I'm not going to go into it right now, but I'd be happy to take questions on it with my assistant commissioners.

Our amendments also seek to protect the rights of individuals under the act, including their right to access

their health information, from any improper conditions or restrictions. I can't tell you how important it is, again, as a patient—especially if you're a patient dealing with multiple health care providers in different facilities. You become the manager of your own information. You've got to have everything at your fingertips. If there's any imposition on your ability to get your information, which you have a right to, this can impose a real barrier. I'm really asking for your assistance in making sure health care providers don't impose any imposition to people getting their own health information.

I never have a problem, of course—that may not surprise you—getting my information, but I think, again, I'm unique. Sometimes, health care providers ask patients for their reasons: "Why do you want the information? Why do you want a copy"—

The Acting Chair (Ms. Laurel C. Broten): Commissioner, we only have a couple of minutes left, so if I could ask you to reach your conclusion. Thank you.

Dr. Ann Cavoukian: See? That's what always happens when I go off-script. I only have two paragraphs left. I'll turn back to the script.

The amendments also attempt to ensure that the process for conducting reviews and for investigating and adjudicating complaints prescribed in the act is consistent with the reality of the circumstances in which such reviews and investigations are undertaken. We'd be happy to expand upon that during question period.

In closing, please permit me to reiterate that the act is working very well and does not, in my view, require any significant changes. Thank you very much once again for providing me with the opportunity to appear before the committee today and for considering my office's proposed amendments to the act. My assistant commissioners and I will be happy to answer any questions that you may have. Thank you very much.

The Acting Chair (Ms. Laurel C. Broten): Thank you very much. Watching the time closely, unless there are some very specific questions of clarification, we have exceeded our time for your presentation and don't have time for questions.

Dr. Ann Cavoukian: Just by one minute. Can I just— **The Acting Chair (Ms. Laurel C. Broten):** We run a very tight ship; we have a very long day.

Dr. Ann Cavoukian: Just one more thing, and you will be so excited to hear this: We have the best structure here in Ontario. Today in the news clips, California just indicated that they're setting up a new state office. It's called the Office of Health Information Integrity. Why? Because they don't have an Office of the Information and Privacy Commissioner. They're setting this up, and the hospitals are to draft a plan to safeguard patient information, because they don't have the protections that we enjoy here under PHIPA and our office. We're very fortunate in this province, and I thank you very much for that.

The Acting Chair (Ms. Laurel C. Broten): That was a nice way to start our day. Thank you.

ARCH DISABILITY LAW CENTRE

The Acting Chair (Ms. Laurel C. Broten): I'd like to now call upon our next presenter, ARCH Disability Law Centre. Good morning. If you could please identify yourself before the committee. I'll let you know that you have 15 minutes for your presentation, and that includes our time to ask questions.

Ms. Ivana Petricone: Yes. I will try very hard to stay within that time. Good morning. My name is Ivana Petricone. I am the executive director of the ARCH Disability Law Centre.

I'd like to begin my remarks by telling you a little bit about ARCH. ARCH Disability Law Centre is one of the community legal aid clinics in Ontario. We specialize in serving people with disabilities throughout Ontario. ARCH represents people with disabilities in a number of ways. We engage in test case litigation, we provide summary advice, and we also provide public legal education and engage in law reform activities on behalf of people with disabilities. ARCH is, as I said, one of a number of community legal clinics that serve people with low income in Ontario. Our membership consists of more than 60 disability consumer and service organizations, and our staff report to a consumer-based volunteer board of directors.

At ARCH, we continually hear concerns from clients and the community of people with disabilities regarding health information privacy. Health information privacy legislation is of particular importance to people with disabilities, and I'd like to describe that to you. Compared to the general population, an enormous volume of health records and information is compiled regarding people with disabilities. Such information is collected, used and distributed in a host of different contexts. Access to and privacy of health information has a strong impact on the ability of people with disabilities to participate fully in society. People with disability rely on their health information not only for medical treatment and research, but for most other aspects of their lives, which include employment, education, insurance, access to government services, income support and transportation. Decisions that will determine whether or not an individual receives government disability payments or other income maintenance benefits, accessible transportation, private disability insurance or accommodations at work are all reliant upon the person's health records.

0930

Given the importance of access to personal health information by persons with disabilities, that information must be easily accessible by the person concerned. The access should not cost very much—in fact, it should cost as little as possible—and the individual should face no barriers to information concerning themselves.

The right to privacy and confidentiality of that information is another most important element of health information privacy legislation for people with disabilities. If an unauthorized disclosure occurs, even of

the simple existence of the disability, this can easily result in discrimination against that person. It is essential, therefore, that PHIPA provide scrupulous protection of unauthorized dissemination of personal health information.

Since its enactment, PHIPA has gone a long way in achieving these important goals for people with disabilities. Today, I'd like to highlight for you some areas that ARCH believes require revision by the Legislature to come closer to achieving these goals.

The first area I'd like to discuss is the applicability of PHIPA to non-health-sector persons and organizations. As you may know, many people with disabilities, particularly those with intellectual or developmental disabilities, live in supportive housing or what are called group homes. The service providers in these residential settings are often custodians of personal health information. The status of these facilities is unusual under the Long-Term Care Act. Therefore, it is unclear under the current legislation whether PHIPA applies to these service providers, particularly in section 3 of the act, which contains the definition of "health information custodian" and which is not entirely clear.

In addition to these residential settings, detailed personal health information is collected in a host of other non-health-sector contexts, such as in workplaces, insurance, educational institutions and service agencies. This information is equally sensitive, personal and important outside the health sector as within it. Inappropriate disclosure or refusal of first party access is as damaging to the individual in these contexts as it is in health professionals' offices and hospitals.

All health information should be protected equally, regardless of the location in which it is kept.

It is ARCH's recommendation that all custodians of personal health information be governed by PHIPA, including those who are not in a purely "health care" sector. The legislation should include directly all persons and entities who collect, use and disclose personal health information regardless of whether they are part of the health sector.

ARCH has expressed concern in the past regarding non-health information that is frequently attached to personal health information records; for example, in community care access centre records, which contain information regarding eating, transferring, or meal preparation, in addition to financial information, which often is kept regarding a person's eligibility for particular services. Subsection 4(3) of PHIPA deals with "mixed records" and states that personal health information about an individual includes identifying information that is not personal health information. Identifying information is also defined in section 4, but it is unclear what information is covered by this definition or whether it would cover the examples that I've given you. There should be more clarity in these areas so as to protect the privacy rights of all individuals.

Coming from a community legal clinic, I would like to address with you the issue of fees. Persons with

disabilities have a disproportionately greater need for access to medical records, as I've described to you. At the same time, they are disproportionately poor and often not in a position to pay hundreds of dollars to access their own medical records. ARCH frequently receives calls from people who desperately require copies of their health records but for whom the fees charged are prohibitive. Many in the community of people with disabilities have very low incomes and very significant medical expenses. This combination makes it, in most circumstances, impossible for them to afford any significant cost for accessing their records.

At the same time, access to their health records has a major impact on most aspects of their lives, and most importantly, their income. Inability to access these records often means that people with disabilities are denied much-needed social assistance, insurance and accommodations. It is fundamentally unjust and inconsistent with the purpose of privacy law to deny access to health records because an individual cannot pay for them. Therefore, we urge that any fees for accessing health records must be as low as possible, with a mechanism provided by which persons with limited financial means can be exempted from fees altogether.

I'd like to address a little bit the issue of complexity of PHIPA. This is a very complex piece of legislation. I've only been at ARCH for a few months, and it took me considerable effort to work through this law, and I'm an old lawyer, so you can imagine the person in the group home having to work through it. One example is that it's not clear to us at ARCH when reviewing section 8, which relates to freedom of information, which legislation applies, nor is it clear how the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act apply together. This complexity is only heightened for many people with disabilities often because of the disability that they have. ARCH stresses that the act should be simplified and its applicability expressed in a clearer manner.

In addition, ARCH sees a serious need to incorporate public education about the act into the act. Public education must be communicated in plain language and in accessible formats. The information should be available in places often frequented by persons with disabilities, such as group homes and community care access centres. People with disabilities must be informed of their rights and of what they can do if breaches occur. Custodians of personal health information must advise the person if a breach occurs but should also direct the person who has suffered the breach to a place where they can be advised of their remedies; for example, the Information and Privacy Commissioner, whom you've just heard from, or our legal clinic.

In order to fully participate in society, people with disabilities must have access to their personal health information as well as the assurance that that information will be kept confidential and their privacy rights enforced when there is a breach of that confidentiality. While

ARCH views PHIPA as important legislation which achieves many of these imperatives, many issues such as the applicability of PHIPA to non-health-sector persons and organizations, non-health information attached to health information records, accessibility of personal health information to the person concerned, and public education about this complex legislation require more careful attention. The current review presents an important opportunity to address these unresolved issues.

I'd like to thank you for the opportunity that you have

afforded ARCH to make these comments today.

The Acting Chair (Ms. Laurel C. Broten): Thank you very much. We have just a couple of minutes if there are any questions. I'll start with you, Mr. Marchese, if you have any questions.

Mr. Rosario Marchese: Thank you, Ivana, for coming. First, a statement around public education: I think all governments fail in that regard with all bills, and while governments may claim they do it, we never do it. So it's a good point to make publicly over and over again because we don't do a good job of that.

Secondly, did you get a chance to talk to the Information and Privacy Commissioner and tell her about

your concerns?

Ms. Ivana Petricone: I have not, but when there were hearings for the legislation in 2004, ARCH did speak to the privacy commissioner.

Mr. Rosario Marchese: Did you get a chance to talk to any ministry people about your concerns?

Ms. Ivana Petricone: Yes. The ministry people attended at our office a few weeks ago and we were able to present these concerns.

Mr. Rosario Marchese: It's not as if they agree or disagree; they simply listened to your concerns.

Ms. Ivana Petricone: Yes.

Mr. Rosario Marchese: With respect to the fees, was there any sensitivity to the issue of inaccessibility to records because of how high the fees might be?

Ms. Ivana Petricone: I think there was sensitivity to it. You would have to ask them, but we did make the point. It's an extremely important point, for people to be able to afford, so we've made—

Mr. Rosario Marchese: I agree. I would hope the government would listen to that.

The Acting Chair (Ms. Laurel C. Broten): One last question, Mr. Marchese.

Mr. Rosario Marchese: You heard the privacy commissioner talk about the bill. She's quite happy and doesn't think there are too many changes that are required. Are you familiar with the changes she might be putting forth?

Ms. Ivana Petricone: I'm not. No, I can't address those changes.

Mr. Rosario Marchese: Are you in agreement that the bill is pretty good?

Ms. Ivana Petricone: I am in agreement with that, but for these four areas that I've highlighted today.

Mr. Rosario Marchese: Thank you.

The Acting Chair (Ms. Laurel C. Broten): Mr. Shurman.

Mr. Peter Shurman: Thank you very much for your attendance. Just a couple of questions, primarily pertaining to the centralization or lack thereof in terms of records. How much problem do people who deal with your organization find inherent in the fact that legislation is everywhere? I think of myself, and Commissioner Cavoukian made mention of the same thing—I probably have a hundred different sets of health records everywhere. This act has been around since 2004. The same type of act was contemplated in 2000 by our government.

We agree with this act, by the way, but there's been very little movement on centralization of records in an ehealth sense, and so the collection of this data and the dispersal of this data seem to be a problem. I'm interested

in your experience with this.

Ms. Ivana Petricone: Certainly, our experience, for people with a disability, reflects your experience with records all over the place, in many different places, and is heightened as well. You can imagine that people with disabilities have even more of these records and they are deposited in different places, not only in their doctor's office but in the several offices that I've mentioned.

We did talk with ministry staff about centralized deposit or holding of the information. Inasmuch as that may make those records more accessible to people with disabilities, we agree with that. However, it's hard to see how having everything in one place is going to make that easier for people to get their hands on.

Mr. Peter Shurman: From my perspective, and again, I'm looking for your view on this, if I walked into a doctor's office and handed a card to the doctor or the doctor's assistant and it was swiped and my records were there, that would make me a lot happier, especially knowing they came from one centralized registry.

Ms. Ivana Petricone: Yes, I agree with that. I think the centralized holding of the information may make the protection of that information easier, but at the cost of accessibility.

Mr. Peter Shurman: Thank you.

The Acting Chair (Ms. Laurel C. Broten): Mr. Nagyi.

Mr. Yasir Naqvi: I just wanted to ask you a quick question, and I believe my colleague Mr. Ramal has a question as well. I was intrigued by your comments about the applicability of PHIPA to the non-health sector, and you referred to section 3 in particular, to supportive housing and the application of the act. I was looking at section 3 and I actually see a specific reference to the Long-Term Care Act in paragraph 3(1)2. In addition to that, the whole concept of a circle of trust in the application of the act—in your opinion, is that not sufficient to cover the non-health sector which may be in possession of the health information of individuals?

Ms. Ivana Petricone: My understanding is that the status of group homes is unclear under the Long-Term Care Homes Act, which makes it unclear under the section that you have just read to me. Our point is that we

need to clarify that. We need to make it absolutely clear that that information is protected by these residential settings, which are not really long-term-care facilities; they're homes for people with disabilities. There are supports in the homes. So that status is unclear to us and to many people in the sector. We're simply urging that if that is the intent, if the intent of this section is to capture them, then it should be made more clear in your review.

Mr. Yasir Naqvi: Thank you for your clarification.
The Acting Chair (Ms. Laurel C. Broten): We're out of time. Thank you very much for your presentation.

MINISTRY OF HEALTH AND LONG-TERM CARE

The Acting Chair (Ms. Laurel C. Broten): I'd like to call upon the representatives from the Ministry of Health and Long-Term Care. Please introduce yourself and those individuals who will be joining you at the table. You have 15 minutes for your presentation.

Ms. Carol Appathurai: My name is Carol Appathurai. I'm joined today by Fannie Dimitriadis, who is legal counsel for the ministry. We'd like to thank you

for the opportunity to present today.

I'd like to begin my presentation by providing a little bit of context. Public opinion surveys over the years have demonstrated that the privacy of health information is very, very important to the public. In fact, the public sees their personal health information as the most sensitive of all information. That concern is borne out by two statistics that I think are really quite compelling: 1.2 million Canadians have withheld information from a health care provider; and 735,000 Canadians have decided not to see a health care provider because of concerns over whom the information would be shared with or how it would be used. I think that's quite compelling. That really demonstrates the importance of having strong privacy legislation, more so as we go forward with the electronic health record. I'm happy to say, as you've heard earlier from the privacy commissioner, that Ontario's privacy legislation is really seen to be a model of protections that are very well balanced.

We are bringing forward a few recommendations.

They're not major changes.

First, we would like to amend the legislation to allow for disclosure of personal health information for quality assurance purposes. When we developed the act in 2004, we put in a provision that allowed health care providers to use the information that they have in their possession for quality assurance purposes, to evaluate the quality of the service they're providing. We did not anticipate at that time that they may need more than that information; that is, they would need follow-up information. I can give you an example: When a hospital that has treated an individual discharges that individual to the community for ongoing treatment, it would be very helpful for the hospital to have feedback on how that individual is doing in the community. It allows the hospital to evaluate whether their diagnosis and treatment were appropriate.

Currently, under the act, there is no provision to allow for that disclosure. So we are asking that we amend the legislation to permit that disclosure. We would put some limitations around it in order to ensure that it was for quality assurance purposes only, and we would achieve that balance between supporting an effective health care system while protecting the privacy of the individual.

Our second recommendation relates to public consultation on proposed regulations. Currently, under the act, we are required to post regulations in the Ontario Gazette for 60 days. That's to allow the public time to give us feedback on their opinion. We are suggesting a change to that: reducing the number of days that the legislation is posted to 30 days. This would bring it into compliance with the Ontario Drug Benefit Act and the Long-Term Care Homes Act. We are also asking that we be able to post this information on the ministry website. We do believe that this would not only bring it into compliance with the other legislation, but it would allow us to move time-sensitive technical regulations through more quickly.

0950

Our third recommendation relates to regulationmaking authority related to e-health. Currently in the legislation, we have one section—I think you have it before you—that refers to regulation-making power related to e-health. You can see—I won't read it out for you—that it's fairly narrow in scope. This regulationmaking authority dealt with the development related to aspects of e-health that we anticipated in 2004. Since that time, it's become clear that additional applications of ehealth, unforeseen in 2004, must be accommodated under PHIPA. We would also like to make PHIPA much more flexible to deal with e-health requirements that we can't anticipate at this time. We took some inspiration from Newfoundland in this. Their privacy legislation includes a comprehensive regulation-making power, and we think this is something that would benefit Ontario.

Our fourth recommendation relates to the consent provisions. You have heard the privacy commissioner explain that Ontario's is consent-based legislation, so that information flows on the basis of implied consent, but that consent can be revoked by the patient, by the individual, in whole or in part. This is commonly known as the lockbox. Implementing the lockbox in old legacy IT systems has been a challenge. It's less of a challenge in newly developed situations.

For example, I remember visiting the Sault Ste. Marie community health centre two or three years ago. They developed an electronic health record, and at that time they had 85% of the community in Sault Ste. Marie on that electronic health record. In developing the record, they heard from psychiatrists and psychologists that some information should not be part of the record and readily accessible to everyone. They heard from the mental health and addictions patients that there was a need to keep some of their information locked away. They also heard from the staff at the centre that they felt they didn't want all of their information necessarily to be accessed

by others. They designed—and very nicely designed—an electronic health record that included a box called "social demographics," so that mental health information automatically gravitated there, and individuals who wanted to lock away bits of information could easily do that.

Other jurisdictions are struggling with the challenge of implementing a consent-based model in a technology environment that's not quite there. So you see that Britain has a sealed envelope; you have Finland; you have Australia. All are finding adaptations until we have, as we expect to have fairly soon, appropriate technology. In the interim, as you have heard, the privacy commissioner has come forward with adaptations.

We feel that this consent-based approach is vital to patient trust, and is especially vital as we go forward with the electronic health record.

next recommendation relates breach notification. PHIPA requires that health information custodians notify the individual at the first reasonable opportunity if personal information about the individual is lost, stolen, or accessed by unauthorized persons. This was a first for Ontario, and it has been copied in legislation in other jurisdictions. Some providers have felt that this is particularly onerous. We believe that this provision should be maintained, that it has sufficient flexibility. If you notice, we use the phrase "at the first reasonable opportunity," and that really is quite flexible. We do believe that breach notification is critical to the kind of transparency and accountability that is necessary for instilling patient trust.

Since PHIPA came into force in 2004, we've been working very closely with stakeholders to address their concerns and their issues, and most of those concerns and issues we've been able to address through regulatory change. Recently, we've had requests for changes, for amendment to the legislation to give greater clarity within the legislation. We believe that many—probably the majority—of these requests can be addressed through regulatory change, rather than legislative change, and we're certainly committed to working with stakeholders to address their issues.

We've also heard, as you have, from ARCH and from others as well the need for education for patients on their rights under the legislation and the need for education for stakeholders to ensure that they are aware of their responsibilities under the legislation. We've certainly heard this and we're giving it very careful consideration.

The Acting Chair (Ms. Laurel C. Broten): We only have a couple of moments left, and I have had signals from committee members that they have questions for you, so if you could wrap up, that would be great, and we'll let them ask their questions.

Ms. Carol Appathurai: We've wrapped up.

The Acting Chair (Ms. Laurel C. Broten): Very good. Mr. Shurman.

Mr. Peter Shurman: I just have one question. I'm going to be quite blunt: I'm pretty unimpressed with the work of the ministry in terms of the development of a universal e-health records-keeping system. This act was

put together contemplating that, and we're still at a situation where I myself am going for surgery next week and I filled out yet another paper form. I have no idea how many paper forms about me exist; I'm the same as Commissioner Cavoukian. When can we anticipate that the \$650 million that's been thrown at this so far will justify, for example, the recommendation you make with regard to clause 73(1)(h), which looks at the Lieutenant Governor in Council having a more comprehensive range of blah, blah, blah on e-health records?

Ms. Carol Appathurai: The ministry is very committed to implementing an electronic health record and they're very actively working towards that.

The Acting Chair (Ms. Laurel C. Broten): Ms. Jaczek.

Ms. Helena Jaczek: Thank you for your presentation. I have two very quick questions. Your recommendation number one related to, as you described it, a follow-up situation, a transfer of information from one health information custodian to another. I have difficulty understanding what would be so difficult in obtaining consent from the patient if it was explained to the patient that custodian number one wishes to have a follow-up discussion with custodian number two. Surely the majority of patients would be only too happy to provide their consent, and therefore you would not need that change within the legislation?

My second question relates to fees. We did hear from ARCH again that although there is the possibility of a health information custodian waiving fees, they have found in their experience that this does not seem to be sufficient, and I notice the ministry does not address that issue.

Ms. Carol Appathurai: I'll answer the second one first, because this is a concern for the ministry. We believe that may be a result of a lack of education on the part of stakeholders. Unfortunately, we've found that there are a number of stakeholders who are not fully conversant with the legislation and we think that education on this issue would go a long way to resolving the problem.

In terms of why you cannot obtain consent, that's an interesting question, because really we went into developing the legislation with the principle that, wherever possible, consent should be obtained. But what we did hear from stakeholders is that it's very, very time-consuming for them to do this and that it's simply more efficient in certain areas to allow the free flow of information.

I'll give you an example. In the newborn screening program in Ontario, where they screen approximately 135,000 babies every year, they would have to obtain consent from each of those parents in order to get feedback information on whether in fact their diagnosis of that infant was correct down the road.

Ms. Fannie Dimitriadis: I just wanted to add to that as well. We've also heard from stakeholders that, in some cases, the need for following up on quality assurance arises after the fact. They don't realize it, and at that

point, they've lost touch with that patient. They're no longer seeing that patient. That's what we've heard from some of the stakeholders.

1000

The Acting Chair (Ms. Laurel C. Broten): Mr. Marchese.

Mr. Rosario Marchese: Just a quick few points, Carol. You almost expressed surprise that some people are not aware of the act. For me, it's a given. I would think that all ministry officials would take that as a given in terms of whatever work we have to do. You may be limited in your ability to do it by way of dollars—I'm not sure—but it shouldn't be a surprise.

The other point you make is that 1.2 million people withhold information—I'm assuming you said that's a good thing, because the act works—and that 750,000 did not see a health care provider. Presumably that's good, but I'm not quite sure how that is a positive thing—as a question.

The final one is that you appear to agree with many of the changes that people are recommending by way of regulation. Are there some that you don't agree with? Which ones might they be?

Ms. Carol Appathurai: As we've said in our recommendations, we would not agree with any amendments to the consent or breach of notification, but I would have to actually see all of the recommendations before I could answer that question.

But I may not have been clear in describing the context. I used the 1.2 million and 735,000 examples from the 2007 Ekos survey to illustrate just how sensitive and how concerned people are that they would go as far as withholding information or not seeing a doctor because of that concern about the protection of their information.

The Acting Chair (Ms. Laurel C. Broten): Thank you for your presentation.

STEVE ELSON

The Acting Chair (Ms. Laurel C. Broten): I'd like to call upon our next presenter, the Schizophrenia Society of Ontario, London chapter, if you could introduce yourself. You have 15 minutes for your presentation, including questions.

Mr. Steve Elson: My name is Steve Elson, and I'm a member of the leadership committee of the London chapter of the Schizophrenia Society of Ontario. I'd like to say how very pleased I am to have this opportunity today.

I am a parent of a child who lives with schizophrenia. For the last 12 years, I have been actively involved with the Quinte chapter, and more recently the London chapter, of the Schizophrenia Society of Ontario. For the last three I have served as the London chapter chair.

As a family, we have had our own struggles, and in addition I've had the opportunity to listen to many stories from other family members about their difficulty with finding treatment for their family member.

Recently, based on complaints and frustrations voiced at meetings, I put together a short two-page guide to help family members gain access to information. So while I'm officially here as an individual, unofficially I think I am speaking for many family members, especially parents of family members who are diagnosed and live with a serious mental illness, all across this province.

To put my remarks in context, I would like to say that having access to health care information about a son or daughter, sister or wife needs to be understood within the lifelong context of our relationship with our family member. For example, as parents, these are children we have nourished, raised and lived with from birth. They are people we love and cherish and people we have a profound sense of commitment to. As our children, we have seen them grow up and often flourish into adolescents or young adults, only to have their and our lives irrevocably and profoundly changed forever with the onset of mental illness. I say this because it is important to understand that whatever involvement we have with the health care system and professionals, it pales in comparison to our life experience with these individuals before, during and after any active treatment they receive. Yet all too often, the experience, insights, understanding and, yes, even the love we have to bring to the whole clinical treatment process is discounted. It may be rejected, tolerated or accepted, depending on who we encounter. From our perspective, nothing is predictable.

At the same time, progressive mental health treatment research has documented the significant role that families play and the value they can bring to the treatment, care, healing and recovery process. In terms of the health care system, it's like we are on the outside looking in, while at the same time it is families who have been and will continue to be the primary support system for their ill family member. It's like we're good enough to care and be fully responsible for the well-being of our family member outside of the health care treatment and care process, but not good or valuable enough to be actively involved while they are in it.

So now what? In the context of the hearings today and PHIPA, I think that the legislation as it is being applied serves to exclude families, especially families who are directly involved and committed to their loved ones. For example, it does not recognize the lengths that families sometimes have to go to get their loved one into treatment. If a family member is actively psychotic, then we need to practise the tough love of getting the police or justice of the peace involved. For someone who is actively delusional and has no insight, seeking out treatment is not a voluntary option.

So it's no surprise, in this context, that the parent or spouse is labelled as the enemy. We are often the target of our family member's anger, since it is our intervention that has often resulted in the person being placed in treatment, which they see as being unnecessary. So it's no surprise that the person in treatment might want nothing to do with the family or want to deny them

access to information. That's why context is so important.

This is not a one-time event. It is a lifelong condition, and we live with the possibility of having to repeat this scenario if the person goes off their medication. In the long term, some families can get discouraged and burnt out from constantly going it alone. In the worst-case scenario, everybody gives up on the individual and they fade into the world of homelessness and severe personal neglect.

The recent Senate report on mental health, headed up by Senator Michael Kirby, called Out of the Shadows at Last, gave testament to the grim realities faced by family members all across this country. While not all situations are like this, we know that if we don't actively participate in the lives of our loved ones, the consequences can be dire.

Now that I have set the scene, let me offer some observations based on my experience and that of others. While PHIPA has served a very useful role in defining the rules around what information can be shared with whom and has put a special status on personal health care information, it is almost as if protecting the privacy of information is more important than the reason it was collected in the first place. The general rule is that information cannot be shared and only by exception can it be. So the responses we get include: "No, we can't tell you without permission"; "We can't tell you because your family member says he/she doesn't want us to"; "We can't tell you because the ill person is an adult"; "We can't tell you because you are not part of the circle of care"; and "We can't tell you because you are not a substitute decision-maker." You get the idea.

At the same time, from a continuity-of-care perspective, family members can provide a vital link in the provision of support and care, not only before and after hospitalization but during as well, if they are allowed to. I would like to think that the provision of care and the continuity of care take precedence and that privacy provisions safeguard the patient, but not at the expense of addressing the health care needs of the patient.

As an example, if a patient in a hospital were to be discharged into the care of a licensed group home or residential care facility, the group home staff would have access to the information they needed to ensure recommended treatment approaches and medications are maintained and followed. It just makes sense that this happen. Why? Because it is in the best interests of the patient that this occur. So why, if a patient is being discharged home, do the same provisions not apply?

Obviously, I think they should, and I'm glad to say that the province of British Columbia thinks so too. British Columbia has put provisions in their Freedom of Information and Protection of Privacy Act whereby families can be provided with relevant information without the person's consent if "the disclosure is for the purpose for which the personal information was originally obtained or collected; or a use consistent with the

purpose for which the personal information was originally obtained or collected."

Here is an excerpt from the Guide to the Mental Health Act, 2005, from British Columbia: "If a client's personal information was collected for health care purposes, public bodies may release necessary information to third parties for 'continuity of care.' This means public bodies may disclose personal information to health care professionals, family members, or to other persons, such as friends and relatives, involved in a client's care for the purpose of that care. The release of the information must be in the best interests of the health of the client."

I would like to conclude by asking that this committee carefully review the provisions that the province of British Columbia has put in place and give serious consideration to amending PHIPA to allow for the sharing of personal health information in the same manner as BC has done.

Thank you for the opportunity to come here today to inform you of my perspective, to voice my concerns and to table a solution for your consideration.

The Acting Chair (Ms. Laurel C. Broten): Thank you for your presentation. Mr. Ramal.

Mr. Khalil Ramal: Thank you for your presentation. You've brought a different perspective to the committee.

I have had a similar experience. Constituents came to my office many times to deal with their daughter, but they weren't able to do so because of the regulations and privacy issues, because she was an adult. What happened then? The daughter killed herself. I'm probably not allowed to mention names, but you're probably familiar with that story. It has happened on a regular basis, and you mentioned it.

You spoke eloquently when you described how parents are allowed to look after their loved ones, but when it comes to health care, because they're dealing with an adult, they're not allowed to know more information about their health care or provide additional information or support in order to treat their loved ones. So you're asking us to extend the ability to provide information to the parents or the circle who will provide that person some kind of care.

What do you think about when we establish electronic records? I didn't get a chance to ask the ministry when they presented to us about the possibility of allowing a person access to his or her record through a special code—especially with the technology now. It gives us that ability, instead of going back to the doctor to pay a fee, because so many people have no ability to pay a fee every single time they want some kind of a record or information about their health care. What do you think about this?

Mr. Steve Elson: First of all, I think there definitely have to be some parameters or some safeguards associated with who gets access to information and that that's clearly enshrined in the legislation. Obviously, one option is to allow family members to be defined as part of the circle of care and to be fairly specific about who

those individuals are. That may in fact allow family members to gain access to the information that they're currently not provided. There perhaps are a number of approaches, but there obviously needs to be some authenticity to the requests, in terms of the kind of information that family members require.

In terms of whether it's provided electronically or accessing information electronically, I think that's a secondary concern, from a family member's perspective. What we need is the information that's going to allow us to have some understanding as to the kind of situation and what we need to do to contribute to the ongoing rehabilitation or the ongoing care of the individuals who come back into our homes. When we're guessing or we don't have that information, particularly clinical, available to us, that becomes really problematic.

The Acting Chair (Ms. Laurel C. Broten): Mr. Marchese.

Mr. Rosario Marchese: I really sympathize a great deal with what you're saying. We always struggle with how to balance the interests. Often, we go too far in one way or the other. But I do appreciate what you're saying. I think we've got to find a way to allow parents to get this information, because I understand it's about helping the son, daughter, wife, partner, or whoever it is, and helping yourselves. So I'd be very interested to look at the BC model to see where it has succeeded and where there might be some problems and how we could fix them.

Have you talked to the ministry, and what have they said about how we might deal with this particular issue?

Mr. Steve Elson: Good question. I haven't, personally. When I spoke with the ministry, when I brought this to their attention, they indicated that in fact they would be looking at other legislation in other provinces. I basically left it with the ministry to do that investigation and determine whether or not it was something that was appropriate for Ontario to take under consideration.

Mr. Rosario Marchese: I'm sympathetic to that. I hope we can find a way to help families deal with that problem.

Mr. Peter Shurman: Mr. Elson, thank you for appearing. I follow on my colleague Mr. Marchese's question, because I too find myself very much in sympathy, and I've been an advocate for family members who can't advocate for themselves. Sometimes that decision has to be made absent their ability to give you permission to advocate, so I hear what you're saying. But looking at the quote that you've provided from the BC act, "If a client's personal information was collected for health care purposes, public bodies may release necessary information to third parties for 'continuity of care." So far, so good. "This means public bodies may disclose personal information to health care professionals, family members, or to other persons, such as friends and relatives, involved in a client's care for the purpose of that care. The release of the information must be in the best interests of the health of the client."

In whose opinion—how would you contemplate making that determination?

Mr. Steve Elson: Good question. I think that clearly the responsibility for the release of the information belongs with a custodian, the person who has the legal responsibility for the release of that information.

Mr. Peter Shurman: Forgive me, though: In your presentation, it doesn't seem like there necessarily is a custodian in some of these cases. You've got a father and a daughter relationship, perhaps, where the daughter has a problem but maybe you don't have the custodial right. It seems to me in your presentation that came across. What happens then?

Mr. Steve Elson: You're quite correct from that perspective. I was looking at it from the point of view of the person who's the health information custodian. We're missing the context of the word "custodian." The person who has responsibility for the health care information within the health care system—my understanding would be that in fact it's their judgment as to whether or not they do or do not release the information. What we're asking for is allowing that as an option, allowing that information to be released and shared with family members in a predictable fashion so that it doesn't become guesswork as to whether it will or will not be shared with us.

Mr. Peter Shurman: Then let me ask that question one more time: Who makes that determination? Who decides? A court? Who?

Mr. Steve Elson: I would like to think that it's the person who would be the primary custodian of that information, so it might be a physician, it might be the hospital who has the responsibility for that information. That information doesn't belong to us; we're asking for the information that belongs to the patient in that record to be shared with us as family members. It's not under our control; we recognize that. What we're saying is that people who do have control and will therefore make that decision about whether to share it or not, be that the health care provider—that there are clear provisions in terms of enabling them to share that information with us as family members.

The Acting Chair (Ms. Laurel C. Broten): Thank you, Mr. Elson, for your presentation.

COUNCIL OF ACADEMIC HOSPITALS OF ONTARIO

The Acting Chair (Ms. Laurel C. Broten): I'd like to call upon the Council of Academic Hospitals of Ontario. Please introduce yourselves as you join us at the table. You're beginning to understand the drill here. You have 15 minutes. That includes questions, and certainly the time goes very quickly. Please begin when you're ready.

Ms. Mary Catherine Lindberg: Good morning. My name is Mary Catherine Lindberg and I'm the executive director of the Council of Academic Hospitals of Ontario. To my side is my colleague Mary Jane Dykeman, a

lawyer specializing in advice to academic hospitals, including on privacy and research matters. In particular, Mary Jane has provided us with considerable advice related to the Personal Health Information Protection Act.

The Council of Academic Hospitals of Ontario acts as a collective voice for Ontario's 25 academic hospitals. Ontario's academic hospitals, in full affiliation with our province's six medical and health science schools, have a threefold mission: They provide specialized and advanced care to patients from within and outside their communities, they teach future health care professionals, and they conduct health research that leads to tomorrow's health care advances. We are the hospitals of last resort, the hospitals that provide the highly specialized acute care.

Our members are also members of the Ontario Hospital Association, and we have worked closely with the OHA in our review of PHIPA. Our council fully supports the positions and recommendations set out in their submission to this committee. I understand that OHA is scheduled to present to you later today. This morning, I will focus on the direct impact the PHIPA legislation has on our members' unique and most significant contribution to the system: health research.

Ontario is the fourth largest health research centre in North America. Twenty-five academic hospitals and affiliated research institutes employ 10,000 researchers and generate over \$850 million annually in research activity. Ontario's academic hospitals are home to 80% of all of Ontario's health research. Ontario's health research enterprise is internationally renowned, with some of the world's most highly cited health researchers located within our universities and research hospitals. In this post-genome era, we are developing unprecedented insights into how the human body works and making progress on how to intervene to prevent, treat and cure disease. With chronic diseases on the rise and an increasingly aging population, this new knowledge will be needed more than ever.

Clinical trials are one aspect of health research, and these studies include volunteer research subjects. These studies answer questions about efficacy, safety, impact on quality of life and a host of other crucial issues.

We have recently completed an extensive initiative to standardize clinical trial agreements, with the ultimate result that the academic hospital—the principal investigator in the study—and the drug sponsor now have a common set of ground rules to which they agree. These agreements include the usual contractual language about insurance and other standard terms and conditions; however, they also speak specifically to the standards that must be met to protect individual privacy, as well as the confidentiality of personal health information. Our member hospitals have adopted these principles and present a united front to the industry sponsors on ground rules around health privacy and research, which brings me to the impact of PHIPA on health research in Ontario.

Our primary goal in research is to promote excellence in the delivery of health care without doing harm. Clinical researchers and hospital administrators support safeguards for health information and to prevent its misuse. Researchers have dealt with issues of individual privacy protection and the confidentiality of personal health information for many years. They recognize that the relationship between researchers and research participants, and, by extension, the personal health information of these research participants, must be based on trust and respect. The challenge for legislation such as this is finding the sometimes sensitive balance between privacy concerns and the need for societal advancement in areas such as medical discovery. We need clinical trials. They save lives and they make lives better.

It is the position of our council that the PHIPA legislation, as it is currently written, does support the health research mandate of Ontario's academic hospitals. We ask that this sensitive balance be maintained as the standing committee considers proposed changes. We want to ensure that we maintain an environment within Ontario that ensures a health care system that is continuously improving, while being respectful and protective of the rights of the individuals whom it serves. We would be very pleased to work with you to ensure that an appropriate balance is maintained.

We also understand that there may be some consideration of increasing the transparency of the activities of research ethics boards, including mandatory publication of documents related to clinical trials, such as letters of approval issued by research ethics boards.

For those of you who may not be familiar with research ethics boards, research ethics boards have the responsibility of assessing the ethics of all research that is undertaken within their organization. The purpose of a research ethics board is to ensure that all research involving human subjects is carried out with the highest scientific and ethical standards, and to ensure safeguards are developed which provide the greatest protection to patients and members of the community who serve as research subjects. They are also arm's-length entities.

Ontario's academic hospitals are fully committed to transparency and accountability, but in this area we must offer some caution. In the case of research ethics boards, we believe current requirements already protect patient privacy as well as provide rights to access information. These include:

First, patients interested in participating in a research study must at the outset provide informed consent. As a result, there is an obligation to provide these individuals with full disclosure concerning the study, including potential risks and benefits. This information is provided directly by the research team, and typically, contact information for the principal investigator as well as the research ethics board is provided to the individual in case they have any further questions. In some instances, personal health information may be used or disclosed for research purposes without consent, such as in a retroactive chart review, but only as permitted by the

PHIPA, where the research ethics board has turned its mind to whether it's appropriate to permit this to occur. A good example would be a case of epidemiological or longitudinal studies that may be taken over a number of years. In such studies, obtaining individual consent would be impractical—this is part of the criteria set out in PHIPA—but there is a strong public interest in supporting this kind of research.

Secondly, a publicly accessible, searchable Web database of clinical trials already exists to provide additional information to interested parties. This database provides information relating to 60,000 clinical studies across 157 countries, including the trial's purpose, who may participate and its location.

Thirdly, research ethics boards are arm's-length entities: arm's length from hospitals, researchers and industry. There is little evidence to date to suggest that their impartiality has been undermined.

Additionally, section 15 of the regulations to the PHIPA mandates that each research ethics board be constituted in a particular manner in order to serve the public interest. This includes having a member of the board with an express interest in privacy. In practice, research ethics boards are becoming more attuned to privacy matters and incorporate these into their ethics reviews of prospective studies.

Finally, the Information and Privacy Commissioner of Ontario, as the oversight body, continues to have the power to investigate complaints, including those related to research, as well as to initiate investigations in her own right.

A robust research environment is necessarily rooted in innovation and intellectual property. Our recommendation is that we carefully weigh privacy concerns against any solution that may jeopardize the necessary level of confidentiality in health research that promotes and sustains innovation and investment.

Our recommendation, therefore, is to maintain the current requirements for transparency of research ethics boards, as an appropriate balance has been struck between necessary disclosure to patients and the public and the confidentiality required to preserve intellectual property.

We appreciate the opportunity to share our position. We thank you for your careful consideration of this very important issue of patient confidentiality. We would welcome an opportunity to discuss our comments.

The Acting Chair (Ms. Laurel C. Broten): Mr. Marchese, any questions?

Mr. Rosario Marchese: It appears that you support the current legislation; it strikes the right balance, you say. It also appears that you're worried that changes might be made. Do you have reason to believe that changes are coming from somewhere?

Ms. Mary Catherine Lindberg: If everybody starts to review all the other legislation and looks at other things—and there has been some discussion that maybe the research ethics boards should release their approval letters—we're just a little worried that that might compli-

cate some of the things that are happening. We have no positive reinforcement that says that will happen. We're just saying that we want to be cautious and we want to live with what we have.

The Acting Chair (Ms. Laurel C. Broten): Mr. Shurman? Ms. Jaczek.

Ms. Helena Jaczek: Just following up a little bit on the question from my colleague across the way, we did hear from the Ministry of Health this morning, first of all, that in fact four out of five Canadians do value the privacy of their personal health information, but also that the ministry is considering a recommendation related to quality-of-care research, where, potentially, health information would be passed from one health information custodian to another health information custodian for the purposes of follow-up related to quality of care, without seeking the patient's consent for that follow-up. For me, quality-of-care follow-up is a type of health research; it is obviously designed to improve care etc. So, with your background and your knowledge of what you have described very clearly here, the standard research procedures that Canadian academic hospitals follow, would you be in favour of such a change to the legislation, as proposed by the Ministry of Health and Long-Term Care?

1030

Ms. Mary Jane Dykeman: If I could just jump in for a moment, I know that that's been one of the discussions amongst the teaching hospitals and it's been raised by the ministry. My understanding was that some of the focus was on things such as serious adverse events and quality improvement. And you're right; it's an excellent point. There's been an ongoing debate for some time about what is quality improvement versus what is pure research. I think we probably do step aside somewhat in that arena to really focus on quality improvement. I think that's probably not the main focus of CAHO; we think mainly of clinic trials and, again, the use of the information in retrospective chart reviews. But I know that many of the academic hospitals, as well as many of the other health information custodians, would like to do that to ensure that we share the appropriate information about serious adverse events and make proper improvements to the health care. It's not focused specifically on research. So I think there is a distinction to be made.

The Acting Chair (Ms. Laurel C. Broten): Thank you very much for your presentation.

PSYCHIATRIC PATIENT ADVOCATE OFFICE

The Acting Chair (Ms. Laurel C. Broten): I'd now like to call upon the Psychiatric Patient Advocate Office. I would ask you to join us at the table and introduce yourselves as you commence your presentation, please. You have 15 minutes, and that also includes the members' time for questions.

Mr. Ryan Fritsch: Good morning. My name is Ryan Fritsch. I am legal counsel to the Psychiatric Patient

Advocate Office, which I will refer to as the PPAO. With me this morning is David Simpson, one of our program managers.

We would like to thank the committee for its invitation to consult in this first statutory review of PHIPA. We are here today to share our perspective as a rights protection organization with over two decades of experience. We also speak from the experience of our network of 60 rights advisers and patient advocates who have worked under PHIPA for the last three years in dozens of hospitals throughout Ontario.

Three years ago, the PPAO appeared before the Standing Committee on General Government and raised a variety of issues with the then-draft version of this legislation. Today, we appear before you to say that many of those same issues persist. We encourage this committee to take this review opportunity and address many of these issues now.

Let me begin this morning by telling you who we are and what we do. The PPAO was established in 1983 as an arm's-length organization of the Ministry of Health and Long-Term Care to protect the civil and legal rights of in-patients in the current and divested provincial psychiatric hospitals. We provide a range of services, including instructed and non-instructed advocacy, systemic advocacy, rights advice and public education.

Since the changes to the Mental Health Act in 2000, the PPAO has been designated by more than 95% of schedule 1 hospitals in Ontario as their rights adviser. Last year, we provided more than 20,000 rights advice visits to patients, did work on more than 4,500 advocacy issues, and contributed to 140 systemic-change concerns. We also had 3.2 million visits to our website, which is full of guides and rights information.

In our experience, there is a huge gap between mental illness, acceptance and understanding in Canada. In our submission, privacy legislation is the key to bridging that gap. Privacy laws protect patients who need help from the discrimination that hurts everyone. By protecting persons from discrimination, privacy laws contribute to social equality, communal empowerment and individual recovery.

As with any significant piece of legislation, PHIPA has its limitations. While we are going to focus on two primary areas in a moment, we would like to draw your attention to a number of key issues that we will not have time to discuss in detail. Two of these issues significantly erode patient rights. These are: (1) barriers to access and disclosure of patient health information records because of an onerous complaints resolution system; and (2) barriers to access and disclosure of patient health information records because of excessive and arbitrary fees.

Two other issues we address in our written submissions include: (1) everyday misuse of the concept of the circle of care as a way of interpreting patient rights under PHIPA that is extralegal and unintended by the legislation; and (2) confusion among health care providers, patients and patient families over the legal test for

consent to medical care, and when a patient is providing knowledgeable consent versus implied consent.

Finally, two other issues we raise speak to the need for education and policy guidance. These include, first, that quality-care committees should be reviewed and redefined to better serve their intended function; and two, that many health care providers, particularly outside of major institutions, are unaware of fundamental and basic patient privacy rights. We submit that privacy must be made a part of the health care curriculum and that government must do more to provide plain-language privacy rights resources around the province.

We would be happy to provide the committee with any supplemental material on any of these issues.

You'll find that the first issue we focus on in our written submission concerns the need to strengthen and improve a patient's right to protect their personal health information under the existing lockbox provisions of PHIPA. These concerns are raised between pages 1 and 3 of our written submission.

By way of background, PHIPA sections 20(2) and 37(1)(a) proactively empower a patient with the right to direct limits on the disclosure of specific content in their personal health information record from other health care providers or persons of concern who may come into contact with the record. This so-called lockbox provision protects the patient from the discrimination, stigma, embarrassment and interference that may occur when their mental health diagnosis or treatment regime is unnecessarily disclosed to family members, employers, neighbours, colleagues, landlords, friends or other private or public institutions beyond the privacy of the therapeutic context.

The PPAO was instrumental in advocating that this provision be included in PHIPA during the initial drafting phase of Bill 31. Unfortunately, we find that its protections are still absolutely required. A study published this month by the Canadian Medical Association found that Canadians are 50% more likely to fear telling friends and relatives about a mental illness than any other health diagnosis, including cancer or diabetes.

Some typical examples where a patient would invoke their lockbox right to avoid prejudicial information leaks would include that a mental health facility not share a diagnosis with a family physician; that adult children are protected from having their treatment regime disclosed to family members; that a landlord is not told about the mental illness for a patient receiving housing support under a community treatment plan; or that a patient's neighbour working in the treatment facility not be privy to their health information.

Unfortunately, the self-evident value in such a protective right is being underutilized by patients. In turn, this is keeping the right from becoming a normalized routine in everyday health care. We think the reasons for this are fourfold.

First, many health information custodians take an overly generous interpretation of what information within a patient's health record is "clinically necessary." Some-

times this disclosure takes place in direct contravention of the patient's order. But patients can also get caught between a rock and a hard place when they attempt to enforce their right. On the other end of the spectrum, it does happen that patients are referred to specialists or other doctors who refuse to treat them until they know what health information is within the lockbox.

Second, health information custodians may wrongly conclude that lockbox rights are to be balanced against the circle-of-care principle. This principle does not exist within PHIPA, yet it is commonly used as a shorthand for providing all personal health information to the circle of health care providers and sometimes family members. Unfortunately, this principle is not only extralegal, but it is often given a huge discretionary grey area as to who is and who isn't within the circle of care.

Third, lockbox protections are also usurped when a patient's psychiatric information follows them to new institutions or doctors. Complications arising from such a move can include a continuing presumption of consent at the new institution, or a health information custodian with different standards than the patient has been afforded in the past. Such problems are exacerbated by the lack of standardized consent forms, the patchwork of information retention schedules, and the dispersion of records across many institutions or practitioners. All of this is onerous if not impossible for patients to anticipate and manage, and becomes yet another barrier to health access in a system that is already often slow to respond to mental health care needs.

Fourth, patients are often simply unaware that they have a right to the protection of a lockbox. This calls out for education of patients, their families and health care practitioners alike.

1040

For the most part, we believe these shortcomings can be addressed through legislative clarification that focuses on (1) presumptively restricting a patient's lockbox only to those so authorized; (2) accounting for the circle of care and other grey area health care providers; and (3) requiring that health care providers respect and abide by lockbox provisions over their personal or moral misgivings.

Moving on, you'll find that the second issue we focus on in our written submission is critical of the way police collect, use and retain the personal health information of persons diagnosed with a mental illness. Furthermore, we are concerned with how police analyze and disclose this information for the purposes of conducting police record checks and vulnerable persons screenings. These issues are raised between pages 3 and 7 of our written submission.

Our core concern here is that the patchwork of municipal police services across Ontario is not currently governed by PHIPA in the exercise of these reporting functions. They therefore receive no standardized principles or procedures that would extend the privacy rights and sensitivity given to personal health information in contexts other than this one. Without such protections,

police have free range to determine how information related to a mental health diagnosis will be characterized as so-called "information of concern on file" to the public safety, which in turn requires that it be disclosed as part of a records check. As a result, an individual's personal health information is not only disclosed outside of its therapeutic context, but it is also given a criminal profile that compounds prejudicial and discriminatory attitudes against mental illness. Even more damningly, this can permanently compromise a patient's ability to obtain employment, volunteer in their communities, obtain health insurance and enjoy civil liberties such as the basic freedom to travel.

The truth is that most police contact with persons having mental illness is non-criminal in nature. Under the Mental Health Act, police are called upon to respond to persons in distress or in need of assistance and effectively act as a mode of transportation to connect them with the health services they require. More recently and increasingly, police are being paired up with a nurse or other health care worker as a mobile response unit to provide the most appropriate health crisis services possible. Out of these encounters, we note how four primary concerns arise that should be dealt with under the PHIPA framework.

First, it is all too easy for the inference to be made that any contact with police is criminal in nature. Unfortunately, our experience is that this already typifies the common practice. When persons with mental illness are temporarily taken into custody and to a place of examination pursuant to the Mental Health Act, it is more often than not wrongly characterized as a criminal arrest. This criminalizing mistake is made even within the judicial system. Within the police service, a record of a series of non-criminal interventions might characterized over time as a pattern of behaviour that police determine is relevant as information of concern. In our submission, police should not be put in the position of being psychiatrists in blue. Patterns of behaviour should not be inferred from misleading representations of incidents and should not be based on assumptions about the meaning of a health diagnosis or a simple lack of knowledge and understanding.

Second, police might make such a conclusion as to the relevancy of health information without fair consideration of any external referent such as the nature of the inquiry into the background check, the environment in which services are to be provided or the actual risks associated with vulnerable populations within that environment.

Third, police services believe that they are entitled to release this information as pertinent to a records check as it is police information and not personal health information. This is a questionable practice on its face, but also because police record other types of health information, such as injuries and visible disabilities, that they would never consider relevant or proper to release as part of a police records check.

The Acting Chair (Ms. Laurel C. Broten): You only have a couple of minutes left.

Mr. Ryan Fritsch: Thank you.

Finally, we note that the line continues to blur between police services and health services. While we support the role of mobile crisis response units, it is our experience that health information recorded or observed by the attending nurse may also be recorded by the police officer.

In our submission, we believe that this deeply concerning list of privacy violations can be addressed by extending the PHIPA framework to these police functions. Section 4 of the act defines personal health information, in part, as that which "relates to the physical or mental health of the individual." Based on this definition, it appears that much of the information gathered and released by police services across Ontario would be covered by PHIPA as personal health information.

Additionally, the Ministry of Health and Long-Term Care should provide the necessary direction either in law, regulation or policy to ensure that privacy barriers between health and police services are respected.

As the database grows and as crisis response units become a more common way to assist persons suffering mental illness, the potential for discriminatory information flows will intensify. These privacy concerns must be addressed through province-wide standardization to ensure that the disclosure of information through police record checks at least satisfies the very high test for disclosure of mental health information in the common law, if at all. It is for these reasons that we believe this issue must be addressed as part of the statutory review of PHIPA.

As this concludes my submissions, we invite questions from the committee. Thank you.

The Acting Chair (Ms. Laurel C. Broten): Thank you very much for your presentation. You've given us a great deal of information, written information as well, which I'll ask the committee to review. But we won't have any time for questions this morning.

FAMILIES AND FRIENDS OF SCHIZOPHRENIA

The Acting Chair (Ms. Laurel C. Broten): If I could call upon the next presenters, the friends and family of schizophrenia.

Ms. Annick Aubert: My name is Annick Aubert, and I was fortunate enough to get copies made of my presentation by the clerk because, as you can tell, after what I just heard I'm a bit emotional.

I consider myself a primary caregiver. I've been looking after someone who has had schizophrenia for 28 years. This is weekly and daily. I'd like to tell this gentleman that my family member came home at 2:30 last night. He never comes home any earlier, and yet I was up here at 8 o'clock this morning. As soon as I give my presentation I'm going to rush back, because he has dia-

betes, and when he takes his blood sugar he often forgets to write it down. When we go to the hospital, they say, "Well, did you keep track of his blood sugar?" I do—so I won't be long.

I must say that I have the deepest respect for the PPAO's office as it was in 1983. These gentlemen maybe will remember that at the first PPAO was David Giuffrida. He did wonders at Queen Street. I was in his office if not monthly, weekly. I just realized this morning—and by the way, thank you, Mr. Marchese. I should have thanked everybody else, but thank you in particular, because you listen to me often. I realized this morning that with the new privacy act, I could never have talked to David the way I talked to him 20 years ago. He would have kicked me out. Yet I'm sure that with my feedback, maybe bias, he was helped to make tremendous changes in what was the old Queen Street Mental Health Centre, especially about restraints and locked rooms, because I did report all that to him. Enough of that.

Families are primary caregivers for nearly half of all seriously mentally ill people, and yes, we are not included in the circle of care. Steve said it wonderfully: Each time we tried to help or we wanted information just to make sure we were doing the right thing for our family members, we were told, in the old days, "Did you sign a form 14?" These days, we don't even know what the new forms are, and anyway, the example by-this lady's office only mentioned consent to disclose, not consent to collect or use. So when we want to call and say, "Our family member did not come home last night. We don't know where he is. Has he been admitted because he was ill on the street yesterday?", we're told, "We can't give you that information." So we go and worry or we go and look for them ourselves, and sometimes we find themunder the Gardiner, on the beaches or on the lakeshore.

The only thing we would really like—and it goes against the PPAO's wishes—is that we be included and be given enough information to help our family members get better. And they do get better with our help.

We just came back from France. We warned them, "Our family member has schizophrenia. He's quite seriously ill," and yet we had three wonderful weeks in France. So we are helpful; we are helping. Please let us help.

I'll stop here, and you can read my report. 1050

The Vice-Chair (Mr. Vic Dhillon): We'll start with the official opposition. There's about five minutes each.

Mr. Peter Shurman: I don't really have any questions. I just want to express my admiration for you. I think that the kind of care that you can give arguably exceeds the care that could be given by any professional. I congratulate you for what you're doing.

The Vice-Chair (Mr. Vic Dhillon): Mr. Marchese.

Mr. Rosario Marchese: I did want to ask the Psychiatric Patient Advocate Office a question in relation to what you're raising and in relation to what the previous parent raised. I understand that there are circum-

stances when sharing some information with some family members would be worse, but I also understand that there are many times when sharing information with family members is important and is good, and you two parents have indicated why it's important to strike that right balance. While I seriously respect the rights of individual patients, I also know there are parents like yourselves who want to help, are committed to helping, and there's nothing else you could do but help, which means you suffer if you're unable to do so, and the person you want to take care of suffers because your ability to help isn't there. We've got to find a way. That's the question I wanted to ask the presenter, Mr. Fritsch, to respond to, but we didn't get a chance. I'm hoping the ministry will look at the British Columbia model to see what works and what doesn't, as a way of finding the language that allows families to be part of the solution. I hope we find

Ms. Annick Aubert: We do not ask for confidential information. What they share with their psychiatrist is none of our business; we don't want to know any of that. We just want to know, at least, if they've been admitted if we've been looking for them for years, or when they're going to be discharged, because sometimes we're not told when they—and they change their mind all the time. When they refuse consent while hospitalized, they're often discharged, and even though they don't want to talk to us, they are on our doorstep and we didn't know they were there.

The Vice-Chair (Mr. Vic Dhillon): Thank you, Mr. Marchese.

Mr. Rosario Marchese: I just want to congratulate her for being a worried parent who's giving a lot.

The Vice-Chair (Mr. Vic Dhillon): Government side: Dr. Kular.

Mr. Kuldip Kular: I don't have any questions. I really want to thank you for presenting here before the committee.

In my experience as a family doctor turned politician, I feel the same way as Mr. Marchese feels: that we have to find the right balance between disclosing the information for family members or caring custodians. But my feeling is, where is that right balance? That would be the most difficult job to bring into the act, and I don't know how we can do that.

COMMUNITY AND LEGAL AID SERVICES PROGRAM, YORK UNIVERSITY

The Vice-Chair (Mr. Vic Dhillon): Next, we have community and legal aid services program, York University, and Ms. Nadia Chiesa.

Welcome to the committee. You have 15 minutes. Please state your name for the record, and you may begin.

Ms. Nadia Chiesa: My name is Nadia Chiesa. I'm a law student at community and legal aid services program, a student legal aid clinic at Osgoode Hall Law School at

York University. I'm joined today by Amy Wah, legal counsel at CLASP.

CLASP represents clients with mental health needs in many areas, including housing, income support and human rights work, and we work in partnership with agencies serving this community.

Working with the mental health consumer survivor community, we have become aware of the concerns surrounding the current police practice of retaining and disclosing records of detention under the Mental Health Act. Today, I will be addressing this issue in more detail as well as outlining our recommendations.

In recent years, it has become common practice for employers and community groups working with vulnerable persons to require potential employees and volunteers to consent to a police records check. The goal of conducting these background checks is to verify that the individual in question has not been involved in any known activity that may place the agency's client base at risk. Unfortunately, most agencies do not have a clear understanding of the limitations of these inquiries, nor of the type of information maintained on police records that may be disclosed to them.

If an applicant has been detained by police under the Mental Health Act, which means that police have transported him or her to the hospital for psychiatric assessment—or, less commonly, that police have transported him or her between psychiatric facilities—then a police record will exist. A police record is created even if the individual is not admitted to hospital for treatment. A police record is created simply because the individual is transported to hospital by police.

The following example illustrates how these records are created and how this is an issue that can affect everyone, even those with no history of mental illness. A young woman studying social work is experiencing severe depression and recognizes that she needs help, so she calls her sister. Her sister drives her to the hospital, where she receives treatment and is released. She returns to her everyday life. She applies to a job at a children's centre and has to agree to a police records check. She does not have a record and she gets the job.

Another young woman who is also studying social work is experiencing severe depression. She recognizes that she needs help, so she calls 911. The police go to her home and drive her to the hospital, where she receives treatment and is released. She returns to her everyday life. She applies to a job at a children's centre and has to agree to a police records check. She has a police record simply because the police drove her to the hospital. In order to continue with her application, she must disclose the record and the circumstances surrounding it to her potential employer. She does not get the job.

Section 17 of the Mental Health Act authorizes police officers to detain and transport individuals to hospital for examination by a physician in a number of circumstances. A police record is created simply because the police have transported the individual to the hospital.

We are concerned that when a person is detained under the Mental Health Act, that incident can later be disclosed to a potential employer and community agencies during a police records check. After an applicant consents to the police records check, the record itself is sent to the individual, while the employer receives a letter stating that the check has been completed and that there is information on file. The applicant is placed in the compromising position of either disclosing the record—and, by extension, his or her personal health history—or withdrawing from consideration for the position.

This type of police record does not mean that the individual has engaged in criminal activity or even has a diagnosis of mental illness. Employers often, however, do not understand what this record means and withdraw job offers as a result.

We submit that this information should be considered to be personal health information, implicating the individual's personal health at the time of detention, and as such should be protected by PHIPA. The practice of disclosing these records is a serious infringement of an individual's right to privacy.

Detentions under the Mental Health Act are not criminal in nature, yet are maintained in the same category as theft, break and enter, and weapons offences. These mental health police records are retained for five years plus the year of the incident, a longer period of time than some police records in relation to criminal charges.

Further, unlike some criminal police records that a person can request be cleared after a certain period of time, there is no process in place to pardon or clear mental health police records.

Since these detentions are not criminal in nature, most people who find themselves in this situation had no idea that this information might ever be disclosed as part of a police records check, nor should they. Our clients' experiences show that at the time of detention, the person is typically not informed that a record of this police contact will be retained and could be disclosed during a records check in an employment context. Considering that these detentions involved no criminality, it does not occur to those who have had this experience that it would ever be disclosed to a potential employer when they consent to a police records check. Unfortunately, most seem to learn that this incident is on their record only when the police record is sent to them and the employer contacts them to discuss the results of the check. They are then placed in the unenviable position of either disclosing this personal information, which can be a humiliating and traumatic experience, or forgoing the opportunity of employment. This amounts discrimination based on a disability.

It is important to note that youth are particularly affected by these records, as early onset of mental illness can begin during adolescence. Once a young person has this kind of record, it can adversely affect educational, volunteer and employment opportunities. The record will

follow them during their critical formative years. Further, while youth criminal records are often sealed after the age of 18, mental health police records for youth are not. These records will follow a young person into early adulthood.

1100

The practice of releasing this personal health information, which should be protected by PHIPA, criminalizes people with mental health issues and perpetuates the myth that they are dangerous. It is discriminatory in its practice as it reveals non-criminal records related to persons with psychiatric disabilities. It negatively affects an individual's access to employment and full participation in society.

The practice also impairs an individual's right to non-discriminatory access to health care. For example, if an individual knows that calling 911 to seek health care during a mental health crisis may result in a mental health police record that could adversely affect employment, education and volunteer opportunities, he or she may be less likely to access the necessary health care.

PHIPA is intended to protect an individual's right to privacy of his or her personal health information. The practice of releasing records of detention under the Mental Health Act violates this right. The consequences of this violation are severe considering the significant stigma surrounding mental illness in our society. There is overwhelming research demonstrating that people with mental illness face discrimination in all areas of their lives because of the diagnosis. The very fact that potential employers receive a letter from police indicating that a police record exists may be sufficient to cause an employer to withdraw an offer. This is discriminatory when the underlying basis is not criminal conduct. When this information is released to an employer, the individual is forced to either disclose his or her personal health history or forgo the opportunity. It is an extremely difficult decision to make and neither option is satisfactory.

We submit that the police practice of disclosing records of detention under the Mental Health Act to an employer during a police records check violates the individual's right to the privacy of personal health information under PHIPA. Police should still be able to collect information for the purposes of maintaining business records as long as consent is obtained in accordance with the requirements of the act, but other uses or prejudicial disclosures should be restricted.

We recommend that this committee consider amending PHIPA to specifically enumerate records of detention under the Mental Health Act within the definition of personal health information so these records will be clearly protected by PHIPA. By defining these records as personal health information, the police would no longer be able to release these records as part of a police records check. When an individual consents to the collection of this information at the time of detention under the Mental Health Act, he or she is consenting to

the collection of information for the intended use of maintaining police business records. The individual should not be presumed to be consenting to the use or disclosure of the information as part of a police records check. Therefore, when an individual consents to a police records check, he or she should not be presumed to be consenting to the disclosure of mental health police records. This presumption would violate the requirement that consent be knowledgeable, because the individual would not know that his or her police record could contain this personal health information.

We also recommend that records of detention under the Mental Health Act not be subject to any exemptions in the legislation so that an individual's right to privacy of his personal health information will be guaranteed. Ontarians have the constitutionally guaranteed right not to be discriminated against on the basis of a disability. The current police practice of releasing records of detention under the Mental Health Act violates this right.

We recommend that the Ontario Legislature develop PHIPA in accordance with the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms, as the courts have indicated that legislation should be interpreted in accordance with national and provincial commitments to human rights legislation and the Constitution.

Amending PHIPA to protect these rights as personal health information, thereby prohibiting the release of these records, would not only preserve the integrity of the legislation but would protect the fundamental human rights of all Ontarians.

I'd like to thank you for having me here today.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. A couple of minutes to each side.

Mr. Rosario Marchese: Yes, a quick comment, Nadia. Are you related to Dino Chiesa?

Ms. Nadia Chiesa: No. I'm not.

Mr. Rosario Marchese: And you noticed how I pronounce Chiesa?

Ms Nadia Chiesa: Yes.

Mr. Rosario Marchese: We're so lucky to be able to recognize these sounds.

I really appreciate what you're raising. The other group raised similar points—the Psychiatric Patient Advocate Office. The point about what is personal health versus criminal record is important. You understand the problem. If something should happen or if something was not disclosed in a way that would help people solve a problem, then we as politicians, as legislators, would be liable—somebody would be liable. So what's the fine line between how you help individuals not be discriminated against, because they would under the circumstances you describe, versus where it should be recorded in such a way that it would allow us to prevent a problem down the line? Do you think that what you present offers that balance for public protection versus personal protection?

Ms. Nadia Chiesa: I believe it does. As I mentioned in my submissions, having a mental health police record does not mean that you are mentally ill or that you suffer

from a diagnosis of a mental illness, or that you have engaged in any criminal conduct whatsoever. We're not opposed to the release of criminal records during an employment check. We're concerned that, by releasing mental health police records, police are releasing personal health information that should be protected.

Mr. Rosario Marchese: I'm personally sympathetic to the argument, actually. I'm not sure whether you've discussed that with the ministry people who are here and what they've told you. If you have an answer, let me know.

The Vice-Chair (Mr. Vic Dhillon): Mr. Naqvi.

Mr. Yasir Naqvi: Thank you for your presentation. Is it a possibility that we can get a copy of your presentation?

Ms. Nadia Chiesa: Yes, we'll also be submitting written submissions.

Mr. Yasir Naqvi: That will be great. Thank you very much.

My understanding is that police records are created under the Police Services Act. Am I correct?

Ms. Nadia Chiesa: I believe so, yes.

Mr. Yasir Naqvi: So don't you think that that obligation, whether or not to release police records, would be covered under the Freedom of Information and Protection of Privacy Act and Municipal Freedom of Information and Protection of Privacy Act? Are there not enough safeguards with those two pieces of privacy legislation and what they cover, that we may not require any amendment to PHIPA?

Ms. Nadia Chiesa: Yes, it is true that those two pieces of legislation do apply and that police have not historically been subject to PHIPA. However, we submit that, because the mental health police records deal so distinctly with a person's personal health information—that is, the record is created because of their mental state at the time of detention, and their mental state is the whole reason for the detention—we submit that this information should be considered personal health information and also subject to PHIPA.

Mr. Yasir Naqvi: So do you think that would somehow provide for more added safeguards than already exist in the system?

Ms. Nadia Chiesa: Yes. We hope that if PHIPA were to protect this information, then this information would not be released in the context of an employment police records check, which is what's happening now and is leading to discrimination in terms of employment opportunities.

Mr. Yasir Naqvi: It's interesting, because just today, there was an article in the Globe and Mail that talks about a situation in London, Ontario, where now the Human Rights Tribunal is required not to disclose those police records. The London Police Service, as I understand, will no longer be doing so. This gives me the indication that, obviously, recourse and mechanisms do exist as is, legislatively speaking. And as Mr. Marchese was suggesting, where do we draw that fine balance in terms

of this particular piece of legislation? But thank you very much for your submission on this point.

The Vice-Chair (Mr. Vic Dhillon): Mr. Shurman.

Mr. Peter Shurman: I think in one way or another we all share the same concerns. I'm not insensitive to what you're saying, but I find the examples that you gave to be, I suppose purposefully, very simplistic. It's not as cut and dried as somebody has a crisis, goes and gets treatment, and in the case of some kind of a mental depression, as I think you were using as an example, "Let's take a pill and it'll all go away and why should there be a police record kept?" A 911 call is a very, very serious call. So as I started out saying, I'm not insensitive to it, but I certainly would like to hear what mechanism you would recommend besides codifying something, somehow, in PHIPA.

Ms. Nadia Chiesa: Yes, absolutely. I understand your position and your concern. We use the examples that we did today because although there are certainly more serious situations and more long-term ongoing situations, this is the kind of story that we've heard from clients over and over again. It could be one instance, one mental health crisis that leads to this creation of a record that follows someone for at least five years down the line. That's why we see it as being so important that this kind of protection is codified in the legislation.

Mr. Peter Shurman: Well, I will put it to you again: I don't know how we would codify this. Frankly, if I were the employer and the description of your imaginary example puts me in the position of hiring someone who's going to care for children, I want to know that. I want to know that there was a depression for which there was treatment, whether that record is contained on police files or anywhere else. I have yet to hear a convincing argument that says that within five years, I shouldn't.

1110

The Vice-Chair (Mr. Vic Dhillon): Do you have a comment on that? Just very quickly, please.

Ms. Amy Wah: If a person's mental illness is a bona fide occupational concern, I think it would be only fair to someone who is a prospective employee to be asked for that information specifically. It wouldn't be fair and it would be discriminatory if an employer were to get access to this person's mental health status via a request for a criminal records check. I think we need to keep those two things distinct and separate.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We have to carry on.

CANADIAN MEDICAL PROTECTIVE ASSOCIATION

The Vice-Chair (Mr. Vic Dhillon): Our next presentation is from the Canadian Medical Protective Association. Good morning. If you could state your names, you have 15 minutes; any time remaining will be used up evenly for questions. You may begin.

Dr. William Tucker: I'll introduce my companions in a moment, but thank you for hearing our submission.

I'm Dr. Bill Tucker, a neurosurgeon at St. Michael's Hospital here in Toronto, and I'm the president of the Canadian Medical Protective Association, the CMPA. The CMPA is a not-for-profit mutual defence organization operated by physicians for physicians that liability protection provides professional approximately 73,000 Canadian doctors, including 29,000 here in Ontario. The CMPA also compensates patients who have been shown to have been harmed by negligent medical care. As a not-for-profit organization whose modus operandi is to balance, over time, its costs and revenues, the CMPA has nothing to gain financially or otherwise from the Personal Health Information Protection Act.

I am joined by Dr. John Gray on my right, the CEO and executive director of the CMPA, and on my left, Mr. Domenic Crolla, a partner of the law firm Gowling Lafleur Henderson. A member of the CMPA's general counsel is also with us to be available to answer questions at the end of the presentation.

I'll open my remarks by stating that, on the whole, the CMPA believes that the PHIPA is working well. Physicians understand the importance of doctor-patient confidentiality and their obligation to protect personal health information. This responsibility is drilled into physicians from the very first day of medical school and it remains top of mind throughout one's career. Accordingly, the core values of the act resonate very well with physicians.

The committee staff has received our written submission, which provides additional detail on the three subjects we would very briefly like to highlight for your attention this morning.

The most important item deals with the apparent discrepancy between the act and other legislation concerning an access parent's right to his or her child's personal health information. This discrepancy poses very practical issues that should be addressed.

The second item addresses the protection of quality assurance information, an area where we believe the act works well.

The final topic relates to the personal information of the health care provider, an area not addressed within the current provisions of the act but one that does require attention.

Before passing the microphone to Dr. Gray, let me momentarily take off my hat as an elected member of the CMPA council and speak to you as a practising physician. Few situations are more challenging for a doctor than informing parents about the often difficult decisions to be made regarding treatment for their sick or injured children. The current legislative discrepancies related to an access parent's right to that information add an unnecessary complicating factor to these difficult situations. The current uncertainty is not in the best interests of the child, his or her parents or the health care provider who may be caught in the middle.

I'll now ask our CEO, Dr. John Gray, to speak to these issues in a little more detail.

Dr. John Gray: Thank you, Dr Tucker. Let me preface my remarks by stating that, while I am currently the CEO of the CMPA, I also understand the difficulties that Dr. Tucker described. For 26 years, I practised as a family physician in Peterborough.

As Dr. Tucker has indicated, the association is concerned about the current discrepancies related to an access parent's right to his or her child's health information. PHIPA assumes that a patient is capable of providing consent as it relates to the information's collection, use and disclosure, regardless of age. When a child is less than 16, the act also provides authority to a parent acting on the child's behalf to give, withhold or withdraw consent to the collection, use and disclosure of the child's personal health information. However, in subsection 23(2), the act states that for the purposes of consent, the term "parent" does not include a parent who only has a right of access to the child. Other sections of the act do provide the access parent with access to the child's personal health information, but generally only where an emergency exists. For most non-emergency situations, no such right of access to the information exists. Absent a court order, the access parent is at the mercy of the custodial parent to consent to the disclosure of the child's health information.

While PHIPA is generally clear as to its intent, it runs counter to both the provisions of Ontario's Children's Law Reform Act and the federal Divorce Act. Both of these acts provide that the access parent has "the right to make inquiries and to be given information as to the health, education and welfare of the child." This difference in approach places the treating physician in a very difficult position. While PHIPA does state that it will prevail unless another act specifically provides otherwise-which the Children's Law Reform Act does notthe Divorce Act is federal legislation and might normally be seen to be paramount. However, it only applies to those circumstances in which the parents are or were once married. As we know, this is not always the case these days. The result is a potentially contradictory and certainly confusing situation.

In preparing advice to our members, the CMPA consulted with the Office of the Information and Privacy Commissioner of Ontario and with the College of Physicians and Surgeons of Ontario. The IPC response noted that the office was not able to provide a definitive interpretation or advance ruling, but it did state that subsection 43(1) could be interpreted such that the health information custodian may, without consent, disclose the personal information if permitted by law, treaty, arrangement or agreement made under the act or an act of Canada. The use of the words "could" or "may" is not reassuring to health information custodians potentially caught in a conflict between the custodial and access parents.

Significantly, access parents do have the right to information about their children's personal health information subject to the Freedom of Information and Protection of Privacy Act and the companion municipal

legislation. Indeed, the privacy commissioner's office has confirmed to us that they have issued orders to that effect under those two pieces of legislation.

The access parent does, of course, have the option of seeking a court order to obtain access to the child's personal health information, but this option is often not feasible; for example, due to a lack of financial resources.

The bottom line is that under stressful conditions where clarity is most required, there appear to be conflicting provisions in different legislation. This places the physician in a difficult position with the custodial and access parents and may not permit the physician to place the child's best interests first. The CMPA believes that this situation can best be resolved by amending PHIPA to expressly permit an access parent to have access to his or her child's personal health information. We encourage you to make this recommendation.

Switching topics, the CMPA believes that the current provisions of the act that guarantee the protection of quality-of-care information and of personal health information collected for the purposes of quality assurance programs are sound. By protecting quality assurance information from disclosure, these provisions, together with the Quality of Care Information Protection Act, encourage health care providers to report adverse events so they can be thoroughly investigated and reviewed. By identifying what contributed or what might have contributed to an adverse event, effective quality assurance programs make a very valuable contribution to patient safety.

The objective of these activities is to reduce the number of adverse events so that health care is safer for all patients. Ensuring quality assurance operates in a protected environment is recognized as being vital to the success of quality assurance programs. PHIPA's provisions achieve a very good balance in this area and they support patient safety efforts. We recommend that you leave these provisions unchanged.

1120

The final topic I wish to address relates to an area which is not effectively addressed by the act or by other legislation, namely the protection of the personal information of health care providers. As Ontario adopts various forms of electronic records, be they electronic medical records or electronic health records, this issue is becoming increasingly important. The act provides reasonable guidance with respect to the collection, use and disclosure of personal health information, including that found in electronic records. However, in addition to patient information, those same records contain an increasing amount of information about individual health care providers—patient volumes, prescription practices, infection rates and so on. The act does not impose any limits on how such information might be used.

The CMPA recognizes there are legitimate uses for such information, as these uses relate to the role of the health care provider within the health care system. At the same time, a degree of reasonableness must apply, particularly as it relates to the access to and use of such

information. The association believes this is one of several areas where the implementation of electronic records technology has outpaced the development of a supporting policy framework. I will leave it to the committee to judge whether PHIPA should include provisions related to this issue or whether the necessary limits should be included in other legislation. Either way, this is an issue that should be addressed in the near term and I would urge the committee to address it in your report to the Legislature.

Before Dr. Tucker and I address any questions you may have, let me close by stating that PHIPA continues to serve Ontario well. In the CMPA's engagements with other provincial and territorial governments, we often hold it up as a useful model for others to emulate. However, the issue related to access to a child's personal health information is one that demands attention. We encourage you to amend the act to expressly permit the health information custodian to disclose to an access parent the personal health information of his or her child.

We'd be pleased to answer any questions.

The Vice-Chair (Mr. Vic Dhillon): Thank you, Dr. Gray. We'll begin with the government side, Ms. Jaczek—about a minute or so each.

Ms. Helena Jaczek: Thank you for your deputation. As a physician myself, along with my colleague Dr. Kular, we clearly have had experience with this particular piece of legislation. At one point in my life, I believe I was a health information custodian under five different provisions of this act.

I am extremely pleased to see that you have communicated with the privacy commissioner as it relates to your first point, the access parent. Clearly, from what you've told us today, you would prefer a specific amendment. You have received some reassurance, but from the point of physicians, to rely on the response you got from the privacy commissioner is not sufficient in your opinion. Am I correct that you would prefer a specific amendment?

Dr. John Gray: That is correct. The legislation, in our view, is a bit of an anomaly, because it's inconsistent with similar legislation—FIPPA and the municipal act. So we're not sure how this inconsistency arose, but it's not, in our view, in the best interests of either the children or the physicians or other health care providers who have to maybe disclose.

Ms. Helena Jaczek: In addition, on your second point—

The Vice-Chair (Mr. Vic Dhillon): Just very quickly, Ms. Jaczek.

Ms. Helena Jaczek: Okay, very quickly. We have heard from the Ministry of Health regarding a potential recommendation as it relates to quality-of-care issues. Again, do I understand that you would prefer that PHIPA remain as it is and that there be no amendment in that respect? In other words, consent would be required to transfer personal health information from one health information custodian?

Dr. John Gray: Mr. Crolla might be in a better position specifically with QCIPA.

Mr. Domenic Crolla: Yes. The provisions—

The Vice-Chair (Mr. Vic Dhillon): Just very quickly, sir.

Mr. Domenic Crolla: Yes, sir. The provisions of both QCIPA and PHIPA regarding quality assurance have worked very well in the experience of the CMPA.

Ms. Helena Jaczek: Thank you.

Mr. Peter Shurman: I'm sympathetic to your point regarding access parents. I wonder if you would put any proviso on with regard to how much information or under what circumstances, or do you want complete equality?

Dr. John Gray: We're only suggesting it's limited to personal health information. As I say, that's already recognized in the common law and other legislation. It just seems this particular piece of legislation is out of step with others. So we're looking for consistency.

Mr. Peter Shurman: Thank you.

Mr. Rosario Marchese: I appreciate the support you're giving to some of the parents, some of whom are here deputing today. I'm also concerned that giving information to some parents may not be healthy. It could be deleterious; it could be a problem. Some parents are a problem, and so access to the information may not be a wise thing. That's why I think the point of what kind of access should be reviewed—and I'm not quite sure what they're doing in British Columbia. But are there circumstances under which information should not be shared, do you think? Or should we just give complete access to parents?

Mr. Domenic Crolla: There are overriding provisions in both the Divorce Act and the Children's Law Reform Act to prevent access when it's deleterious to the child.

Mr. Rosario Marchese: So you would be recommending some line that says—

Mr. Domenic Crolla: And this issue was raised with regard to FIPPA and the municipal companion legislation, so their access to both custodial and access parents is the same, with the overriding provision applying to both equally.

The Vice-Chair (Mr. Vic Dhillon): Thank you, gentlemen.

SOUND TIMES SUPPORT SERVICES

The Vice-Chair (Mr. Vic Dhillon): Next, we have Sound Times, Ms. Frado. Good morning. You have 15 minutes. You can state your name unless it was different from what I stated. Actually, it would be good to state your full name. I just had the last name.

Ms. Lana Frado: Yes, thanks. My name is Lana Frado, and I'm the executive director of Sound Times Support Services. I'd like to thank the committee for the

opportunity for us to speak here today.

Sound Times is funded by the Toronto Central LHIN to provide community supports to mental health consumers and psychiatric survivors. Located at Dundas and Parliament in Toronto, we serviced over 600 individuals

who made just over 19,000 visits to our facility in the last year. Sound Times is a distinctive agency in that we are staffed entirely by individuals who themselves are mental health consumers or psychiatric survivors. We are the largest initiative of this kind in the country.

Among the services we are funded to provide are services for individuals with significant mental health problems who are involved in the criminal justice system, a prevention or pre-charge diversion project for individuals at risk of offending or reoffending, and planning and support for individuals being released from custody. While my colleagues in the broader disability community will be presenting submissions that I'm certain will address numerous issues with the Personal Health Information Protection Act that impact individuals with disabilities. I come on behalf of Sound Times in an advocacy capacity to provide the committee with a specific and pragmatic exemplification of how the spirit of the legislation as we understand it is not being upheld within the context of mental health service delivery. Hopefully, this will result in further investigation into the practical applications of PHIPA in other sectors.

Like many disability groups, individuals with psychiatric disabilities depend on or are required to depend on service providers to mediate many aspects of their lives. These services include not only clinical services, but also encompass entitlements, such as housing, employment and education. I would like to speak to you today specifically about access to supportive housing, individuals with criminal records and psychiatric histories, and the impact of PHIPA on that access. These individuals are not only marginalized within the broader community, but are also marginalized within the health care system. I use this particular situation to illustrate the problematic of two concepts defined within the legislation, that of the health care record and the notion of consent.

About three years ago, as a result of an interministerial agreement including six ministries, the Ministry of Health and Long-Term Care flowed funding to agencies in Ontario to specifically address the increasing number of consumers and survivors in contact with the criminal justice system. This was a significant amount of funding for our system—\$55 million, in fact. Among the services funded were case management, prevention services, specialized services for individuals with co-occurring substance use or intellectual disabilities, court supports, mobile crisis intervention teams, safe beds and housing. The criteria for accessing these services were a diagnosis of a mental illness and involvement with the criminal justice system. Each service may have had additional criteria more specific to the type of service.

1130

I provide you with this background so that the committee can give some thoughtful analysis to the parameters of what constitutes the health care record in circumstances such as these, where the health care system intersects with the criminal justice system. The nature of our criminal justice system work at Sound

Times results in our having access to information that we would not normally have as a community mental health service—and in some cases should not have—including synopses, disclosures, CPIC reports, criminal reference check results etc. Some of these documents, such as CPIC reports, should never have fallen into our hands in the first place, but were sent to us by an ill-informed service provider either in the criminal justice or mental health system.

The question that emerges is, how far do the boundaries of the health care record extend, and furthermore, how does this impact on an already marginalized individual's attempt to access services? In our experience in referring individuals to housing, for example, the answer is: significantly. We have noted in our dealings with some service providers a preoccupation with gathering what they term "collateral information" that correlates, coincidentally, with the passing of this act.

When the provider of that service is accountable under other acts, such as the Residential Tenancies Act, access to health information in the broad sense, as it is designed in PHIPA, creates a legal quagmire from which the service user is sure to emerge having had their rights violated. Specifically, we have had some housing providers deny housing to individuals with convictions that were several years old on the basis of the nature of the offences, while their current charges are relatively minor. When pressed, managers of these programs default to a risk management argument. However, it is our understanding that once an individual has been found guilty and has served their sentence, they have paid their debt to society, as it were. We do not understand how it falls within the mandate of some parts of the mental health system to continue to essentially punish these individuals by denying them access to such a fundamental right as housing.

Ironically, these individuals have been referred to non-health-funded housing, such as Toronto Community Housing, where disclosure of the health care record is not required. But they will not receive the ongoing support that they have requested from the mental health system.

This conflation of the roles of support service provider and landlord has always been problematic in many respects and for numerous disability groups. The advent of PHIPA appears to have complicated matters. We offer a mandated de-linking of the landlord function from the support function as a potential solution to reduce the possibility of discrimination on the basis of information obtained through PHIPA.

I would like to return to this notion of collateral information for a moment. It has been explained to us by numerous service providers that "the more information we have, the better we can service someone." However, we have witnessed numerous acts of presumptuous and discriminating treatment of our clients based on inaccurate and/or incomplete information. We have experienced service providers collecting third party information of dubious accuracy which falls more within the realm of

impression than fact or actual assessment results. Individuals who use Sound Times have been denied access to services based on collateral information that is so far-reaching as to be irrelevant to the situation at hand.

Finally, we would like to address how all of this carrying-on takes place—with the consent of the client, of course. We believe that the committee has to think about what "consent" means for individuals who are desperate for services, individuals who marginalized as to not only be excluded from meaningful participation in the community, but who are denied many of the entitlements of citizenship that most of us enjoy. If you are a mental health consumer and you are desperate for housing before winter hits, if you need stable housing in order to battle a substance use problem, if you are trying to regain custody of your children by proving your stability, if you have the potential of having your charges diverted if you agree to access services, if you feel that you have no hope of accessing employment but through funded employment programs, would you consent to have people share information about you? If it was your health care provider who was sharing the information. would you assume that information would include anything and everything, from a five-year-old probation order to a note from a log in a shelter you stayed at last month? Out of literally hundreds of consent forms we receive at Sound Times, we have yet to see one that is not a blanket consent to any and all information we possess.

We understand the spirit of PHIPA is to offer Ontarians protection as to how their health care information is used. However, the government of Ontario has neglected to provide vulnerable individuals whose lives intertwine with numerous services and jurisdictions with effective information about their rights. Thus far, education efforts have not reached these individuals and have not been resourced to nearly the extent that education activities for service providers have. As we are all aware, rights can only be exercised if you know you have them.

The Vice-Chair (Mr. Vic Dhillon): We'll begin with Mr. Shurman—a couple of minutes each. Nothing? Mr. Marchese.

Mr. Rosario Marchese: I'll leave the questions to the Liberal members.

The Vice-Chair (Mr. Vic Dhillon): Any questions from the government side?

Mr. Khalil Ramal: Thank you very much for your presentation. I think you said what other people mentioned earlier.

ONTARIO HOSPITAL ASSOCIATION

The Vice-Chair (Mr. Vic Dhillon): Next, we have the Ontario Hospital Association. Good morning, Mr. Closson; good morning, Mr. Jonker, I believe.

Mr. Tom Closson: That's right: Anthony Jonker and Tom Closson.

The Vice-Chair (Mr. Vic Dhillon): You have 15 minutes. You may begin.

Mr. Tom Closson: Thank you very much for letting us present. I'm the president and CEO of the Ontario Hospital Association, which represents 157 hospitals throughout Ontario. I'll go through this fairly quickly. We do have a submission that we've given you, which contains more detail.

Overall, we are quite supportive of the fact that there is a review going on of the PHIPA, and we think this review will help ensure that the legislation is well positioned for the changing e-health environment that we have in health care, specifically as it relates to emerging technology, security and widespread integration that's occurring throughout the health care system and the opportunities that creates for better health care.

Over the last four years, the OHA has not heard many criticisms from hospitals regarding PHIPA, and in our opinion, based on our membership, the legislation is working. Nonetheless, we think there are challenges that will continue to emerge as we go forward, as technology changes, and we expect that those challenges will accelerate as the technology becomes more widespread.

The OHA's key recommendation for this review is that PHIPA needs to be an enabler of e-health. E-health is a major priority to improve the health care system in Ontario, and PHIPA needs to enable it. It should not be rigid; it should not impose a barrier to achieving a more integrated health care system for the people who live in this province.

To get a sense of the opinion of our members, we canvassed them in July. We received 88 responses from our members, and in this short presentation I'll just give you a sense of what we heard from them. We had 15 open-ended questions based on a multiplicity of issues, including new technologies and privacy and security standards, integration and use of emerging technologies, privacy impact assessments, managing privacy breaches, accessing correction of records, transparency of research ethics boards, lockbox implementation, the adequacy of education tools and support. There was an overarching consensus from the survey respondents on a number of issues, and I'll speak to those shortly. In contrast, there were a number of topics or questions in which the view of the respondent hospitals was quite divergent; in other words, there wasn't a lot of consensus in terms of how people feel. We're going to just highlight those now.

I'll just give you a couple of examples of where there was quite a bit of divergence. For example, with respect to the question of who should be responsible for notifying a patient when there has been a privacy breach, 41% of respondents suggested that the health information custodian where the breach occurred should be responsible, 20% suggested that the health information custodian where the personal health information originated should be responsible, and 21% suggested alternative means or a mixed joint effort. So it wasn't very clear, in their view. As you know, as we get electronic health records, information comes from many sources into the record, and there are many custodians involved.

Another example of divergent views is related to access and correction rules in the context of the electronic health record. The question was posed as to whether access and corrections should occur in a more centralized fashion, given that an EHR would be accessed and created by multiple health information custodians. While 50% of the respondents suggested that only the health information custodian who created the record should deal with the access correction, 25% indicated that any health information custodian should be authorized to access and correct a patient's record, and 15% of the respondents suggested that access and correction should be handled in a centralized fashion. So in fact, the view of centralization seemed to be less than the others, but there was quite a mixed view.

1140

Our conclusion from this—and there are other areas where there's mixed response, as you'll see in our submission, but both of these are examples of how the legislation does not address issues emerging from greater data sharing. No one disagrees with the principles in the legislation, only on how to best comply to an increasingly integrated health care environment in terms of sharing of information. Providers, managers of shared repositories and other health information custodians would benefit from thoughtful consideration of these issues, followed by clear, precise practice standards. So there's work that needs to be done in these areas for sure, and obviously the OHA is quite keen to participate in the development of what those standards should be.

There was a general consensus among the survey respondents on a number of issues, which we would like to take a couple of minutes to speak to. These include the use of privacy impact assessments, the need for privacy and security standards to address new technologies and the electronic health record, challenges with respect to the lockbox in the context of the HR, and clarification respecting the circle of care.

The summary indicates that a streamlined approach to privacy impact assessments is necessary to ensure that they're conducted in a manner that's consistent and based on defined principles. More than 85% of survey respondents suggest that mandatory privacy impact assessments may be appropriate in limited and prescribed circumstances, such as where there's a significant change in technology or addition of a new pool of users, or when multiple organizations are involved.

More than 75% of respondents suggested that as emerging technology constantly changed the health information landscape, the legislation and regulations need to keep pace. Privacy and security standards for electronic health records should be set out in regulation to ensure flexibility to evolve. I think there's an important point there about how this is going to change, so whatever you do now isn't the end, it's just the beginning. And the use of regulations so that it can evolve as e-health systems evolve is very important.

Broad standards are important, given that hospitals and other health information custodians are at varying

stages of implementation of the HR technologies and information systems. We have hospitals in this province that have almost no electronic records and we have hospitals in this province where everything is electronic, and they're able to share with multiple providers in a totally electronic manner. So we're dealing with a piece of legislation that's covering a wide range of situations—again, the need for some flexibility and enablement through the legislation and through the design of this, primarily through regulation.

I wanted to speak briefly to the lockbox. Despite the logistical challenges, hospitals have been successful in implementing policies and procedures to ensure compliance with the lockbox requirement in paper-based records. However, hospitals continue to face numerous barriers in implementing lockbox requirements in electronic health records. The problem is that most of the systems that hospitals use are developed in the United States and they're not easily changed. It's not easy to get the vendors to change them and they're not designed in a way that's capable of facilitating a lockbox on electronic health records.

For example, while some hospitals can lock an entire health record electronically or flag a record to indicate that a patient has locked specific personal health information, health information custodians are generally unable to lock portions of electronic health records when requested to do so. So what some hospitals have done is to actually create a paper record separate from their electronic record for that patient, which, you can imagine, is extremely cumbersome and probably dangerous in some situations in terms of ease of access. Having said that, there are very few people who request to have information locked, so this is a fairly minor issue in terms of its frequency. Until software is developed with the lockbox functionality built in, hospitals will continue to face implementation challenges.

We've left what is perhaps the most important issue for the end, the one that's creating the biggest challenge for us. It's the concept of circle of care. As you all know, PHIPA was built around the concept of implied consent within the circle of care. But hospitals—and as I've said, we have 157 of them-have varying interpretations and opinions in determining whom and which organization fit within a patient's circle of care. I just heard yesterday from my own personal family physician that a number of family physicians are having difficulties getting information from hospitals because the hospitals aren't sure whether the family physicians are part of the circle of care. Additional clarity as to the types of situations which constitute a patient's circle of care, either through legislative or regulatory amendments or through additional policy direction and tools, would be of assistance to health information custodians. Some people are just so nervous about doing the wrong thing that they are doing the wrong thing by not ensuring that the clinical people in the circle of care actually have access to information they need to provide good care.

The survey also asked respondents to identify what additional templates and resources would be of assistance to implement the legislation. Respondents were generally satisfied with the current resources that are available, including fact sheets and resources provided by the Information and Privacy Commissioner, and there's a hospital privacy tool kit.

With regard to additional resources, they requested a second video produced by the Information and Privacy Commissioner for training and education purposes, templates for privacy impact assessments and breach notification, and fact sheets and resources related to circle of care.

Health information transformation in the form of integrated care is gaining momentum in this province. You may know that the Ministry of Health has budgeted over \$2.5 billion over the next few years for the implementation of electronic health records. PHIPA must keep pace in order to facilitate the information integration effort. Shared repositories and an EHR provide the infrastructure of communication access in a centralized fashion, and effective information governance to clarify responsibility and liability within provincial and regional data repositories is required to ensure that health information custodians can participate with confidence.

Thank you for letting us present today. We'd be quite happy to take any questions that you might have.

The Vice-Chair (Mr. Vic Dhillon): Thank you, Mr. Closson. Government side, about a minute each.

Mr. Khalil Ramal: Thank you, Doctor, for your presentation. We listened to many different—

Mr. Tom Closson: I'm not a doctor. I want to correct that just in case anybody gets sick.

Mr. Khalil Ramal: Okay. Thank you anyway for your presentation.

Interjection.

Mr. Khalil Ramal: You spoke like a doctor. You have a lot of knowledge about hospitals.

Mr. Tom Closson: I'll take that as a compliment. Mr. Rosario Marchese: Okay, your minute is up.

Mr. Khalil Ramal: We listened to many different families speak about sharing of information. We talked about the health care custodian—who's in charge and not in charge. You mentioned specifically that some doctors have a problem to be included or not included in the sharing of information. I'm not sure if you were here earlier or not, but Mr. Elson mentioned in his presentation that as a parent with a son with some kind of schizophrenia problem, he's not able to share information in order to care better for his son. It's not just him alone in the province of Ontario; there are many others. What do you think about expanding the sharing of information in order to make sure that the patient gets the best service possible?

The Vice-Chair (Mr. Vic Dhillon): That's a long minute. If we can just get a quick response on that.

Mr. Tom Closson: I would think that that would have to be handled very carefully because the caregivers might be concerned about certain family members having access to information that may be actually used in an inappropriate way with a vulnerable patient who had psychiatric problems. I'm not saying it shouldn't be considered, but I think—if a person was a substitute-decision-maker, I think that's quite clear: They should be. But if they're not, how do you determine which members of the family—for example, maybe it's somebody who wants to contest a will; who knows? Who knows the reason that they would ask?

The Vice-Chair (Mr. Vic Dhillon): Thank you. Mr. Shurman.

Mr. Peter Shurman: Interesting presentation. I'll be brief because I know I have to be. I'm interested in the report card on e-health implementation because I infer from what you said that you're not as happy as you could be \$650 million in. From my information, we're losing about 8,000 people a year because of inefficiencies in the transmission of information, absent universal e-health care, and that's what PHIPA is about—yes or no?

Mr. Tom Closson: We think e-health is a major priority. We're very pleased that the government has decided to invest this much in it. We've got to catch up, though. Ontario is behind many other provinces in Canada.

The Vice-Chair (Mr. Vic Dhillon): Mr. Marchese.

Mr. Rosario Marchese: Thank you, Mr. Closson, for raising a number of questions, including the one that says some doctors can't even get information from hospitals because they don't know where they fit into that circle of care. I'm assuming the ministry is familiar with this and is dealing with it. And thank you for the information about how good the government has been in devoting \$650 million in electronic health care records. A lot of that money was spent by the previous government as well, and we still have hospitals where there are no electronic records, so you raised some good questions.

On the issue of centralization of information, you talked about how many of your members are divided in terms of how to deal with that information, and I'm assuming you have no opinion of your own—that's why you want to be part of some group that attempts to solve that?

Mr. Tom Closson: You're talking about who deals with changes, corrections to information. Yes, we think this needs to be thought through. We need an efficient process, whether it should be centralized or it should be the custodian where the information resides, but we think it needs a bit more work, because there seems to be quite a mixed view from our membership as to what the solution is.

Mr. Rosario Marchese: I'm assuming the minister is just working on that right away, to get all of these people involved. I'm assuming.

Mr. Tom Closson: I don't know.

The Vice-Chair (Mr. Vic Dhillon): Thank you, Mr. Closson.

That ends the morning session for the committee. We'll break for lunch and resume in the same room at 1 p.m.

The committee recessed from 1151 to 1301.

ONTARIO PSYCHOLOGICAL ASSOCIATION

The Vice-Chair (Mr. Vic Dhillon): Good afternoon, everybody. The committee is back in session for the last four presenters. We should be done around 2 o'clock.

Our first presentation is from the Ontario Psychological Association. Good afternoon. If you could state your names for Hansard, and then you may begin. You have 15 minutes.

Dr. Ian Nicholson: I am Dr. Ian Nicholson, chair of the Ontario Psychological Association's ethics and policy committee. I'm joined by committee member Dr. Carole Sinclair and by Dr. Ruth Berman, our executive director.

Mr. Chairman and committee members, thank you for giving us this opportunity to share with you our thoughts on the Personal Health Information Protection Act as part of your review of this important piece of legislation. My colleagues and I are here representing the Ontario Psychological Association, which is a voluntary organization that represents psychologists in Ontario.

Ontario psychologists work in a variety of settings, including health facilities, social services, schools, industry and corrections. In our work, we often collect and use the results of psychological assessments of the social, emotional, behavioural, personality, intellectual, and neuropsychological functioning of children, adults and families. We provide psychotherapy, counselling and diagnostic services, including the collection and exploration of an individual's most private and sensitive feelings, thoughts and personal history, and we research the causes and patterns of health problems in the interest of knowing how to prevent and continuously improve treatment of those problems.

As with other health care providers in Ontario, members of the Ontario Psychological Association participated in the consultative processes in the development of PHIPA, and have now had four years' experience with this act.

In our current presentation, we would like to outline seven aspects of this important legislation that we strongly support, believe have been particularly effective and would be very concerned if they were changed. This will be followed by an outline of four aspects that our members have found to be problematic.

With respect to aspects that we strongly support, in the interests of time I will only refer to specific topics.

- (1) The movement toward an emphasis on privacy and autonomy—collection and use—rather than only on confidentiality or disclosure: We believe this to be an important move forward in the protection of the privacy of personal health information.
- (2) The emphasis on collecting, using and disclosing only information that is needed for the current purpose; and the prohibition of the collection of information for purposes not consented to by the individual, such as research, or disclosure, for instance, of an entire record of

personal health information simply because the entire record has been requested.

- (3) Wording, such as in subsection 18(2), that allows the health information custodian to make the determination that express consent may be more appropriate than implied consent in a specific situation, even though express consent is not required by the act: Our association believes this is an important protection of the autonomy of persons, insofar as general privacy information, postings and information booklets may be insufficient to assume knowledgeable consent in a particular set of circumstances.
- (4) What we call the "lockbox" provision of PHIPA in part III, which allows individuals to control which aspects of their information can be disclosed to others—we also support, however, the freedom allowed in subsection 20(3) for disclosing custodians to notify receiving health information custodians if the disclosing custodian believes that information is reasonably needed for the receiving custodian's services to the individual. The Ontario Psychological Association believes this to be an important safeguard that balances professional judgment with the rights of the client.
- (5) The exceptions under subsection 40(1) that allow health information custodians to share information for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons: Our association believes this exemption to be in the public interest.
- (6) Clause 51(1)(c), which restricts an individual, when accessing their information, from accessing the raw data from standardized psychological tests or assessments: We believe this protection of the tests supports the continued efficacy and utility of these tests. Our association believes that if this exemption were not there, the continued utility of these measures would be substantially negatively affected, as their being in the public domain would seriously undermine their validity.
- (7) Subsection 52(5), which allows the health information custodian to consult with either a member of the College of Physicians and Surgeons of Ontario or a member of the College of Psychologists of Ontario before deciding whether to refuse to grant an individual access to his or her personal health information, where it is feared that granting access might be reasonably expected to result in the risk of serious harm to the treatment or recovery of an individual or a risk of serious bodily harm to the individual or another person.

I want to move on to the four areas that we found problematic.

(1) In section 3, insurance companies are not included in the list of health information custodians. Although we understand that information privacy practices of insurance companies come under federal privacy legislation, OPA members frequently report that insurance companies sometimes do not fully adhere to basic privacy principles. They report receiving requests for disclosure of complete records, including information that goes well beyond the legitimate need of an insurance

- company for information about assessment results. diagnosis, or treatment plan or progress. Complete records often include very sensitive information such as personal history or therapy notes, the details of which could not reasonably be considered necessary by the insurance company to fulfill their functions. Such requests usually are accompanied by consent forms signed by the clients concerned. However, our members report that clients frequently seem to be under the impression that they had no choice, that to refuse to sign would mean that they would no longer be eligible for their insurance benefits. We have been informed of numerous instances in which clients were very distressed by such requests from insurance companies. Our association would strongly support insurance companies being subject to the personal health information protections of PHIPA, possibly by including them as health information custodians in section 3.
- (2) Another aspect of PHIPA with which our members have reported experiencing difficulty is the interpretation of the concept of "circle of care," a phrase that does not appear in the act, but which has become a common language term applied to the situation in which several health care practitioners providing services to the same individual share information about that individual, based on the individual's knowledgeable consent. Our members report that a common misunderstanding of this concept in the broader health care community has been that we no longer need to get the individual's permission to share information about them, that we're all part of the same system, working in the best interests of the client, and that all we need to do is inform the client of which health care providers or organizations are part of their circle of care. We realize this is not what the legislation intended or says, and we're not sure that wording changes to the act would help to correct this misunderstanding. However, there would appear to be a need for clarification and further education regarding the consent provisions of PHIPA as related to the concept of "circle of care."
- (3) Another difficulty our members report is a strict interpretation by administrators in some health care settings of the need for consent to collect or use unsolicited information that is relayed, for example, through an e-mail or voice mail message. A strict interpretation can result in organizational policy that the information cannot be recorded or used in any way, regardless of its relevance to the services being provided. For example, an adolescent under 16 who was deemed competent to consent to substance abuse treatment may not want the health care practitioner to know about his or her recent return to non-prescription drug use, but a parent, concerned about the adolescent, leaves a phone message to let the practitioner know of the adolescent's recent return to using drugs. When a strict interpretation of the act becomes organizational policy that forbids the recording or use of this information, we are put into an impossible position. The Ontario Psychological Association suggests that the legislation could clarify that such

unsolicited information could be recorded and used by the practitioner when needed for the provision of adequate health care services.

(4) Our members also report concerns relating to subclause 44(1)(a)(iii), which requires a research ethics board to approve research that involves access to existing personal health information. Regulation 329/04, section 15, prescribes the requirements for such research ethics boards, which exist almost exclusively in large academic settings such as universities and health science centres. Many members of our association, who have been trained on a scientist-practitioner model, work in relatively small centres such as correctional facilities, school boards or private practices. We have encountered instances where such psychologists would like to engage in personal health information research projects to better understand client needs and help establish the evidence base for effective treatments. However, because they're not linked to an academic setting, they are unable to move forward on such initiatives because no alternative bodies exist outside of large academic institutions. Indeed, it would be expensive and difficult, if not impossible in some small communities, to establish alternative ethics review bodies that would meet the prescribed requirements with respect to numbers and areas of expertise, such as, for example, in a school board. The Ontario Psychological Association would like to see the prescribed requirements for research ethics boards be modified to allow for alternative processes or structures for ethics review of personal health information research by qualified persons based in non-academic settings.

These are only a few highlights of our thoughts in relation to this very important piece of legislation. By and large, although there have been difficulties, it's our opinion that this legislation has been a very important move forward for the protection of the rights of the citizens of Ontario.

We want to thank you very much for your time. We look forward to any further opportunities for consultation as your review of PHIPA unfolds.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. We'll begin with the official opposition. No questions? Mr. Marchese.

Mr. Rosario Marchese: I'm assuming that you communicated these concerns to the ministry before you came here. Did you get any feedback yet from them?

Dr. Ruth Berman: Not in terms of any specific legislative or statutory or regulatory amendments. Yes, we had a meeting with the ministry. We were pleased that they invited us to consult with them. We did voice some of our concerns.

Mr. Rosario Marchese: There's usually some dialogue between you and ministry staff in terms of, "Yes, this would work," or, "No, we have some concerns about that." Was there any kind of dialogue in that regard?

Dr. Ruth Berman: I think there's a certain sensitivity to the concerns that we raised.

The Vice-Chair (Mr. Vic Dhillon): Government side, any questions? Mr. Naqvi.

Mr. Yasir Naqvi: You mentioned a proposal to include insurance companies in section 3. Do you have any examples from any other legislation in Canada where insurance companies have been included?

Dr. Ruth Berman: I don't have any examples. As Dr. Nicholson mentioned, we were involved in discussions with government when PHIPA was being developed, in a very early stage. The early draft of the legislation did include insurance companies. When the legislation was finally enacted, they were not included as health care custodians, though they clearly are recipients. They argued that because many of them are federally incorporated, they're subject to federal legislation. But it has created significant problems.

For example, everyone who drives a car is required to have auto insurance. The moment that you enter into a contract of insurance with an auto insurance company, if you read the fine print, you have, in essence, consented to have all of your health information available to them in case of a claim for injury. So you have, in fact, waived your right to informed consent. You've consented to have information released before you even know what the nature of the information might be. This is at a time when you're healthy and assuming that you're never going to be in an accident. They have the right to have all of that information. If it's not released, then you don't get any benefits. As Dr. Nicholson says, typically, when you get a request as a practitioner, it's for all the information, including any health information that predates the accident, because what they're looking for is a preexisting condition to enable them to disqualify you from your benefits. So it is a big problem.

Mr. Yasir Naqvi: In your opinion, then, could the solution also lie in more strict enforcement of the federal privacy legislation, as opposed to making changes in the provincial legislation?

Dr. Ruth Berman: Again, I have less knowledge of the provincial legislation, so I don't know what teeth it has in terms of enforcement with respect to insurance companies. All I do know is that they were included originally in PHIPA, but they lobbied to be excluded so that they would have, I believe, greater freedom to access the information they felt they needed in order to adjudicate claims.

The Vice-Chair (Mr. Vic Dhillon): Thank you for your presentation.

HIV AND AIDS LEGAL CLINIC (ONTARIO)

The Vice-Chair (Mr. Vic Dhillon): The next group is the HIV and AIDS Legal Clinic of Ontario. Welcome. You have 15 minutes. Please state your name for the record.

Ms. Renée Lang: My name is Renée Lang. I'm a staff lawyer at the HIV and AIDS Legal Clinic of Ontario. We're also called HALCO.

On behalf of HALCO, thank you very much for giving us this opportunity to speak with you today about PHIPA.

HALCO is a charitable, not-for-profit community-based legal clinic serving low-income people living with HIV and AIDS. It is the only such legal clinic in the country and has extensive front-line experience in addressing the day-to-day legal issues faced by people living with HIV. HALCO provides legal advice and representation and engages in law reform endeavours, public legal education initiatives and community development work.

The legal issues that we encounter the most are about tenancies, social assistance, human rights, health law, employment law, insurance and prison issues. We receive over 2,500 client inquiries a year. Our client base is the over 27,000 people living with HIV and AIDS in Ontario. That's a 2006 figure; it's probably a little higher now.

I'm going to limit my submissions today to the lockbox provisions in PHIPA. These are sections 20, 37(1)(a), 38(1)(a) and 50(1)(e). As the previous presenter has stated, these provisions allow someone providing health care to withhold or withdraw consent to disclose or use his personal health information in whole or in part. We ask that this committee not delete the lockbox provisions in your review of PHIPA. We fully support these provisions. We believe that they provide essential protections to our clients.

People with HIV face discrimination in every facet of their lives. Some of our clients have been abandoned by their family and their friends. Some have lost their housing and their jobs. Some have been refused medical or dental care. Our clients must be very careful about to whom they disclose their HIV status, so one of our most common questions from clients is whether they must disclose in this or that situation. This question arises in a number of contexts, but especially in health care, criminal law and employment matters. At least half of our public legal education presentations are on disclosure issues.

1320

Some of our clients are even shy about accessing our services because our letterhead has "HIV" and "AIDS" emblazoned on top of it, so that whenever we communicate with outside persons on their behalf, their HIV status is automatically disclosed. We have had clients who have refused our services because they did not want their HIV status to be disclosed to their landlord or employer, for example.

So this is an access-to-justice issue, but to our clients, the lockbox provisions present an access-to-health-care issue as well. We have had clients express concern about disclosing their HIV status to health care providers, even with the existing provisions in place. A person with HIV who is reluctant to reveal his or her HIV status to health care providers may not receive adequate medical care. They may not pursue medical care at all. The lockbox

provisions help to balance our clients' disclosure concerns with their need for medical care.

Another thing I would like you to consider is that there is a rather large gap in legislative protections for privacy in Ontario. The federal legislation, the Personal Information Protection and Electronic Documents Act, PIPEDA, along with PHIPA doesn't cover the field. PIPEDA only applies to commercial endeavours; PHIPA only applies to health information custodians, who are generally health care workers. So this leaves an enormous gap. For example, there is no privacy legislation that applies to most AIDS service organizations in Ontario unless they happen to provide health care, which most don't.

The courts are not very much help in this area. The tort of breach of privacy is an emerging tort. It's very young, it's in its infancy; not a lot has been done in this area and it's going to take a while to develop. We can't rely on the courts. I have a very hard time advising clients when they want to know whether or not to sue in breach of privacy because of the unpredictability of the courts in this area.

We should be expanding the law's capacity to protect privacy, not limiting it. Please don't erode one of the few privacy protections that exist now for our vulnerable clients. Thank you.

The Vice-Chair (Mr. Vic Dhillon): About three minutes each. The NDP?

Mr. Rosario Marchese: Thank you, Ms. Lang. Some of the information is consistent with what the ministry representative was talking about earlier. Ms. Appathurai made the point that 1.2 million withhold information out of fear and 750,000 did not see health care providers, again out of fear, and I think you're expressing that. You said you want to keep the lockbox provision. Are you somehow concerned that there's a desire by some to change that?

Ms. Renée Lang: We've been given that indication in meetings. We've heard there may have been some concern on the part of health information custodians that it's administratively inconvenient to continue the lockbox provisions and continue adhering to them.

Mr. Rosario Marchese: Perhaps the others might have heard something that I don't know about. I think there's no move to do that, so if others have other information, it would be helpful to hear it.

Mr. Khalil Ramal: Thank you very much for your presentation. We listened to the privacy commissioner in the morning, we listened to the ministry speaking. I don't know why you have those concerns and who's speaking about it. In her presentation—I think it will be an official document—she mentioned the system is working and no need for changes or eliminating the lockbox. For many different reasons there was mention made of it during the presentations today. I don't have any information more than that, and since the system is working, why would we have to change it? We're trying as much as possible to advance it and to do something better to enhance communication and to better the life of the people of Ontario.

The Vice-Chair (Mr. Vic Dhillon): Mr. Shurman?

Mr. Peter Shurman: I have no questions but I'll simply make a comment on behalf of the official opposition. We've never discussed any such changes and I certainly would not entertain them. Thank you for your presentation.

Ms. Renée Lang: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

JO-ELLEN WORDEN

The Vice-Chair (Mr. Vic Dhillon): Next we have Jo-Ellen Worden. Good afternoon. You have 15 minutes, and you may begin.

Ms. Jo-Ellen Worden: Ladies and gentlemen of the Standing Committee on Social Policy, honourable ministers, members of the opposition, third party members, and other honoured guests and speakers: I thank you for your collective efforts in conducting the mandated review of our province's Personal Health Information Protection Act.

One of the purposes of this act is to establish rules for the collection, use and disclosure of personal health information about individuals that protect the confidentiality of that information and the privacy of individuals with respect to that information, while facilitating the effective provision of health care. In layman's terms, I understand the Personal Health Information Protection Act is one of our province's most significant pieces of legislation, essential for ensuring the right of each individual to access their own personal health information as well as each individual's right to decide to whom, when and if that information shall be disclosed.

My submission will speak to a methodology used for obtaining informed or knowledgeable consent for disclosure of personal health information. I will speak to the provisions made under part III, subsection 18(1), which outline that the elements of consent must be a consent of the individual, they must be knowledgeable, they must relate to the information and, of greatest importance, they must not be obtained through deception or coercion.

I will speak to the provisions made for collection, use and disclosure of personal health information under part IV, clause 43(1)(e), which reads:

"A health information custodian may disclose personal health information about an individual ...

"(e) to the Public Guardian and Trustee, the Children's Lawyer, a children's aid society, a Residential Placement Advisory Committee established under subsection 34(2) of the Child and Family Services Act or a designated custodian under section 162.1 of that act so that they can carry out their statutory functions..."

Under the above-quoted portions of the act, there are two contradictory yet seemingly justifiable mechanisms in place by which personal health information, albeit allegedly, is being unlawfully and coercively obtained by individuals with less than honourable intentions during certain investigative proceedings, especially during investigations involving police-perpetrated domestic violence, when the accused officer is involved in an intimate personal relationship with children's aid society personnel.

For those of you members of the Standing Committee on Social Policy who may not be familiar with the term "police-perpetrated domestic violence," it is a syndrome referred to in a document sent to me by the Ministry of the Attorney General's office to describe domestic violence that occurs at the hands of men and women who have been trained in the tactical manoeuvres of intimidation, interrogation, manipulation, deception, power and control. It is the term used to describe the workplace harassment and the domestic violence that occurs at the hands of the very officers bound by oath to serve, protect and uphold the law.

On January 31, 2007, I provided a deputation before the Standing Committee on Justice Policy. I made recommendations to the standing committee with regard to Bill 103, the bill introduced to amend the Ontario Police Services Act pursuant to the inquiries and recommendations outlined in the LeSage report. I am pleased to see some of my recommendations were indeed incorporated in a form into the legislation that received royal assent. For the convenience of the respected members of the Standing Committee on Social Policy, I refer the members to the Hansard transcript of my deputation dated January 31, 2007.

I also provided a copy of the victims' handbook on police-perpetrated domestic violence sent to me by the Ministry of the Attorney General's staff.

As the Standing Committee on Social Policy is no doubt aware, local children's aid societies have come under great scrutiny as a result of atrocities committed against children, and for good reason. It is widely believed by Ontario residents, members of the government and the Ombudsman that Ontario children's aid societies lack effective oversight and may abuse their powers under certain statutes that were designed for the protection of children. These laws were not designed to protect CAS personnel who abuse the provisions afforded by these statutes to harass members of the public, nor where they designed to allow children's aid society staff to engage in criminally negligent behaviours. In respect of the act under review by this committee, I submit:

Parts III and IV of the Personal Health Information Protection Act outline criteria for providing and obtaining valid and binding consents for the collection and disclosure of an individual's personal health information. As a result of the often-intentional revictimization, which occurs in many cases of police-perpetrated domestic violence, post-traumatic stress disorder can result. Many responsible parents, who recognize the impact of PTSD on themselves and their families, voluntarily seek the services of counsellors or other medical personnel involved in the practice of clinical psychiatry. In cases of police-perpetrated domestic violence, this responsible action made in good

faith by a well-intentioned parent has been manipulated into an assault weapon through misuse and abuse of certain provisions afforded under the current provisions of parts III and IV of this act when they are executed in conjunction with other acts designed to protect vulnerable members of the population, acts like the Child and Family Services Act, the Health Care Consent Act, 1996, the Freedom of Information and Protection of Privacy Act, the Municipal Freedom of Information and Protection of Privacy Act and the Mental Health Act.

When the child of a police officer discloses abuse, the ensuing CAS investigation involves the utilization of a special 04 case classification. This special designation is used due to the sensitive nature of CAS investigations into allegations of domestic violence perpetrated by law enforcement personnel. Many of the investigative and diagnostic techniques utilized during the course of an investigation of this nature are tailored in order to extend unofficial professional courtesy to individuals who do not wish to be identified as clients of the involved children's aid society. This special status conferred upon the involved officer serves to protect the reputation of the involved officer but not the child.

Part IV of this act outlines criteria for the collection, use and disclosure of personal health information within limitations and in compliance with mandated requirements. When child protection issues arise, Ontario children's aid societies have been permitted, under the guise of "in the best interest of the child," to utilize coercion and deception as a tactic to obtain consent for the disclosure of personal health information. In the province of Ontario, local children's aid societies can either restrict or completely deny access between a mother and her child should they feel so inclined. In a case of domestic violence where a police officer is the assailant and this assailant is involved in an intimate or personal relationship with CAS personnel, the above-mentioned clauses serve to empower assailants to blackmail victimized mothers into signing consents for disclosure of their personal health information, uninformed, under the pretence of allowing access to occur only if the mother would cooperate with the society and just sign the consents.

Members of this committee may find it interesting that local children's aid societies are manipulating a provision that was intended to protect children and are equating the signing of consents, uninformed and via coercive methods, with cooperating with the society. This information has been used to remove their children from their care and custody. The unofficial professional courtesy that is extended to the abusive officers endangers the lives of their children and other medically vulnerable individuals affected by the officers' abusive behaviours.

Recommendations to the assembly:

Section 43 of the act must be repealed and replaced with a mechanism of law that ensures the protection of the privacy of individuals who have been repeatedly victimized by spousal abuse involving police and CAS

personnel. Our Victims' Bill of Rights is designed to help guarantee victims of crime are not re-victimized by their assailants or by our highly respected justice system. I respectfully submit, in light of the fact that members of the public at large, including the Ombudsman of Ontario. have lost confidence in local CAS personnel who have been remiss in their prescribed duties and the fact Bill 93 has passed first reading in the Legislative Assembly, Bill 103 has received royal assent and a petition has been introduced before the House of Commons to immediately conduct research into police-perpetrated domestic violence and amend the Criminal Code in order to identify police-perpetrated domestic violence as an indictable offence with mandatory minimum sentencing guidelines for individuals found guilty of said offence, that there also be a bill introduced before the Legislature that amends the Personal Health Information Protection Act to safely and expeditiously address matters where personal health information is being sought coercively or for malicious intent in order to obstruct justice in cases where allegations of domestic violence at the hands of law enforcement personnel have been made. The amendment must protect us from abusive collection methods and subsequent utilization of obtained personal health information for malicious purposes in cases where allegations of police-perpetrated domestic violence and/or CAS negligence have been made. Because there are farreaching consequences, and at times repeated revictimization in cases of domestic violence involving law enforcement personnel, I believe this abuse of the justice system via child protection law loopholes warrants added layers of protection incorporated into our provincial statutes.

I also respectfully suggest an immediate repeal and reworking of part IV, subclause 36(1)(c)(i) of the act. This section of the act addresses the indirect collection of personal health information.

The manner in which these statutes are worded leave victims of police-perpetrated domestic violence fodder for revictimizations. Institutions such as child and adolescent mental health assessment and treatment centres are being misused by children's aid societies under the guise of child protection, but in reality this misuse of provincially funded institutions facilitates police-perpetrated domestic violence.

Review of this piece of legislation, the Personal Health Information Protection Act, must be afforded diligent consideration, with the highest degree of deference for an individual's right to choose, as decisions made during the course of these deliberations will likely affect the outcome of processes which arise during the most vulnerable times in one's life, those times when one is required to access resources imperative for one's physical or mental health.

Finally, I challenge the honourable members of the Standing Committee on Social Policy with the commission to ensure that there be legislated and severe sanctions for all breaches of a newly amended Personal Health Information Protection Act.

Police-perpetrated domestic violence is a carcinogenic violation of the trust of some of the most vulnerable citizens of our province that desire only to encourage and support our honourable, noble and truly courageous men and women in uniform. The utilization of the provisions of the Personal Health Information Protection Act, in conjunction with the other relevant acts noted above, for dishonorable purposes must not be tolerated in any form by any individual, regardless of any professional designation.

Thank you for your time and attention to this matter.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. A minute each. The government side—no questions? The opposition?

Mr. Peter Shurman: One question: At the outset of

Interjection.

The Vice-Chair (Mr. Vic Dhillon): Mr. Shurman—

Ms. Laurel C. Broten: It's okay-

The Vice-Chair (Mr. Vic Dhillon): We'll come back to the government side. Go ahead, Mr. Shurman.

Mr. Peter Shurman: Sure. At the outset of your presentation, you talked about and highlighted the issue of obtaining information through deception. In the prior presentation by the Ontario Psychological Association, they talked about clarification of a section which dealt with—the example they gave was a parent who found out that a child was back on drugs after having gone through rehabilitation, maybe failed, and calling a psychologist and giving that information to the psychologist. Is that information obtained through deception?

Ms. Jo-Ellen Worden: That is not the information

that I am referring to. In regards to my-

Mr. Peter Shurman: No, I know it's not, but it's an example. You're talking about obtaining information through deception. There's a question here; they're asking the question because they want clarification. I want your opinion on whether that is an example of information obtained through deception.

The Vice-Chair (Mr. Vic Dhillon): Very quickly,

please.

Ms. Jo-Ellen Worden: That is not something that I can speak to right now because I do not know the provisions of that act. I am not a lawyer. That I can't speak to at this point. I am willing to research that, come back and answer your question more formally when I'm more informed.

Mr. Peter Shurman: Thank you.

The Vice-Chair (Mr. Vic Dhillon): Mr. Marchese.

Mr. Rosario Marchese: Jo-Ellen, thank you very much for coming. You obviously put a lot of emotion into your presentation and you feel strongly about it. There are probably many reasons.

I'm not the health critic, so it's hard for me to get as involved in some of these issues as the health critic might, but it would be wonderful under these circumstances to be able to get an opinion from the ministry, because presumably they would have a lot of background to be able to say what the experiences are with that, what

the problems are, what's good about it. But it's hard under the way we structure committees to get that kind of feedback.

I just want to say you raised some good points. It would be wonderful at some point to be able to get answers to such situations. Maybe the Liberal members might have some information that they could provide for me. If so, that would be helpful. If not, I just want to thank you for your presentation.

Ms. Jo-Ellen Worden: May I speak to that issue? The Vice-Chair (Mr. Vic Dhillon): Very quickly.

Ms. Jo-Ellen Worden: When the petition was introduced into the House of Commons, the federal government did conduct research into this area. We have found that in the country of Canada, there is not a lot of research at all—and I'm speaking specifically to police-perpetrated domestic violence in the general sense. One of the statistics that had come back was that in the research that the federal government did conduct, they found that only 10% of individuals—

The Vice-Chair (Mr. Vic Dhillon): Thank you very

Ms. Jo-Ellen Worden: Stop?

Mr. Rosario Marchese: Let her finish the sentence.

Ms. Jo-Ellen Worden: Okay. Only 10% of the individuals who had made allegations of domestic violence of this type actually received appropriate attention and investigation. Because the statistics are so small and it's such a challenge to be able to deal with issues of this type of domestic violence because of the inherent conflict of interest that comes into play, there aren't a lot of statistics on it simply because many individuals do not disclose—

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Ms. Jo-Ellen Worden:—and when they do disclose, they cannot get help, so the statistics don't exist.

The Vice-Chair (Mr. Vic Dhillon): Thank you. Government side?

Ms. Laurel C. Broten: Thank you. I just wanted to thank you, Jo-Ellen, for your presentation. These are certainly some very large-scale issues that you raise before the committee today, some of which may well fit within the examination that we're doing and some that you've opened our eyes to for us to be aware of as we look to other roles and responsibilities that all of us might have. So thank you very much.

Ms. Jo-Ellen Worden: You're welcome.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much.

Ms. Jo-Ellen Worden: Thank you.

SCHIZOPHRENIA SOCIETY OF ONTARIO, EAST YORK CHAPTER

The Vice-Chair (Mr. Vic Dhillon): The next presentation is from the Schizophrenia Society of Ontario, East York chapter. Good afternoon, Ma'am. If

you can state your name for the record, you have 15 minutes. You may begin.

Ms. Vicky Voukelatos: Good afternoon, everybody. Thanks for giving me the opportunity to voice my concerns in front of you. I am here as a member of the East York chapter of the Schizophrenia Society of Ontario. Mainly, I'm here because I am a mother and family member of someone who is very severely ill from a severe form of paranoid schizophrenia and that is my son.

He became ill 20 years ago, while in university, fourth year. He was studying law. He was very talented, on scholarships. He was very smart and, above all, he was a very loving son and brother. He became ill while he also had a business hiring students on summer jobs. At that time, he had over 150 people working for him. At that time, everything became a rollercoaster for the past 20 years. For a number of years, doctors, nursing staff and hospitals were very hesitant to communicate information regarding his condition. In many cases, it was difficult for me to give or take information. I could see that they wanted to help, but they had difficulty doing it.

I found out from other family members at the support group I attended that part of this problem was form 14 regarding confidentiality. In his many hospitalizations, he would sign form 14 one minute and revoke it the next, before I had the chance to see the doctor or even as soon as I left the ward while in hospital. I would go to the doctor or treating team, only to find out that it was revoked. This became an habitual practice for him, to go back and forth, signing and revoking form 14. Then, in 2004, certain changes were made to the privacy act.

I thought that these changes would make it easier for parents and caregivers to communicate any information with doctors, treating teams and acting members. After all, I thought, we all care for the treatment and well-being of the patient. Well, I was wrong. I was stunned to find out that these changes made it extremely difficult and unbelievably hard to communicate with doctors and treating teams any information regarding my son's illness and treatment. It became next to impossible to talk to anyone, or even find out if my son was in hospital or had been released, or where he had been released. As a result of that, I often walked the streets up and down for days, to find him homeless, hungry, dirty and very ill.

I'm his mother and his caregiver. I love and care for my son for all these years and all the treatment he had in and out of hospitals on many, many occasions. He still has no insight at all, and he doesn't think he's ill and he doesn't think he needs any help.

Through those 20 years he's been homeless, hungry, and abused on the streets. I could write a book on the hardships of my family and myself all those years. The illness makes him suspicious of anybody who loves and cares for him. This act makes it even worse. Instead of trying to work together and build bridges with the families, who are the caregivers, this act makes us, the family members and myself—I feel like an enemy, and in

my son's eyes, I am an enemy because he doesn't think he's ill, he has no insight.

I realize that doctors, nursing staff, and treating teams are hesitant to communicate any information, and are confused with this act, these changes. They don't know how to interpret it and, most of all, they are afraid to say anything for fear of being sued. They ask my son's permission even to say "hello" to me. On one occasion I drove my son to his doctor's appointment—I had not met with his doctor for two years, although I was trying. A person appeared at the door of the waiting room, and I asked the staff person, "Is this the doctor of my son?" I got a "yes" answer, so I said, "Hello, I'm so-and-so's mother. Nice meeting you." I extended my hand to shake hands with the doctor, but the doctor turned to my son and said, "Can I speak to your mum?" And my son, although he had agreed before, said, "No." So the doctor turned their back to me and left the room while I was standing there waiting to say, "Hi, nice meeting you." All I wanted at that time was a "hi." You can imagine my frustration and you can only put yourselves in my shoes as a mother. The doctor was afraid to even say hello to me. That made me very angry.

For the past 12 years, my son has been in a city almost 300 kilometres away, one way. I visit him two or three times a month—or more, if needed. I spend money helping him, supporting him, buying him food, clothes and other necessities. I have paid bills for rent, phone bills, utility bills, and out of all this I have no right to any information or communication. I am good enough to pay bills and support him, but I'm not good enough to have any information or relate any information to the treating teams or doctors or hospitals.

I leave Toronto knowing that the consent has been given, but I never know if that consent is still valid when I get there or that I will be able to speak to the doctor. Sometimes he even asks me to visit, and when I get there, he refuses to see me. That's the nature of his illness. He is paranoid of me, because I try to help when he doesn't think he needs help.

In closing, I want to emphasize strongly that good communication between caregivers, caregiving families and doctors, treating teams and nursing staff is absolutely necessary. Communication without the fear of breaching confidentiality will only make sure that our loved ones will get better care and treatment overall.

Finally, I firmly believe that the privacy act should be amended, should leave room and should include in its decision-making a caring support network, especially with caregiving families, the way, as I heard the previous speaker saying, it's done in BC.

That's all I had to say. Thank you very much for listening.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much. A couple of minutes each—Mr. Shurman.

Mr. Peter Shurman: Thank you very much for an interesting presentation. My heart is with you for what you've endured for these many years.

As I understand it, at the beginning of your presentation, you mentioned that your son had gone through an education, had a business, so he had obviously attained the age of majority by the time he got sick, which means his legal status was adult at that time.

1350

Ms. Vicky Voukelatos: Yes.

Mr. Peter Shurman: Have you at any time since then ever been in a position to be considered legal guardian or have you had power of attorney over his affairs?

Ms. Vicky Voukelatos: Not until his last hospitalization, which was a year and a half. The doctor at that time in the hospital was very good, a very caring doctor who communicated with me all along. We exchanged information. It took a long time to stabilize him, because every time he relapses, he relapses more than before, and every time he gets better, he's stabilized less than before. So every hospitalization is longer than before. The previous was nine months; this was a year and a half.

Mr. Peter Shurman: But your son's legal status has always been, since this started, self-dependent. In other words, he's independent. No court, no body has ever—

Ms. Vicky Voukelatos: This last time, I was named as a substitute decision-maker, but only for the period of the community treatment order, which expires in a month. He refuses to sign it, so he's going to fight me at the review board to take me off as a substitute decision-maker. It has been very difficult, when I cannot get any information or cannot relay any information and he keeps on relapsing, based on this privacy and confidentiality that allows him to—and he manipulates me, also, be-

cause when he needs something, he signs, and when he gets it—and I cannot do anything.

Mr. Rosario Marchese: I just want to thank you, Vicky, for the sacrifices that you're making, including Madame Aubert, who obviously you know, and the family Elson who are at the back. There's got to be a better way to find solutions to these problems, and I'm hoping, because of this review, that we will do that.

Ms. Vicky Voukelatos: I hope, and I count on all of you, that you will make the necessary changes so that we can better care for our loved ones. We didn't bring them into the world to be hungry and homeless in a society like Canada.

Mr. Kuldip Kular: I really want to thank you for presenting here. I am a family physician and I understand the dilemma. It is sometimes very difficult for physicians as well as parents, especially in cases of schizophrenic patients, because, as you know, schizophrenic patients have very poor insight and that makes it very hard for the person's health care providers and parents to communicate. Definitely, during this review, some of these issues will be looked after.

The Vice-Chair (Mr. Vic Dhillon): Thank you very much for your presentation.

That concludes our meeting for today and we're going to have a two-minute recess. I'm going to ask the members to remain in the room and if everybody can please clear out as soon as you can so we can have a closed-session meeting. Thank you very much to all the presenters.

The committee continued in closed session at 1356.



STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke-Lakeshore L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)

Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Kuldip Kular (Bramalea–Gore–Malton L)

Mrs. Amrit Mangat (Mississauga-Brampton South / Mississauga-Brampton-Sud L)

Mr. Rosario Marchese (Trinity-Spadina ND)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Ms. Margaret Drent, research officer, Research and Information Services

CONTENTS

Thursday 28 August 2008

Subcommittee report	SP-289
Information and Privacy Commissioner/Ontario	SP-289 SP-289
ARCH Disability Law Centre	SP-293
Ministry of Health and Long-Term Care Ms. Carol Appathurai Ms. Fannie Dimitriadis	SP-295
Mr. Steve Elson.	SP-297
Council of Academic Hospitals of Ontario Ms. Mary Catherine Lindberg Ms. Mary Jane Dykeman	
Psychiatric Patient Advocate Office	SP-302
Families and Friends of Schizophrenia. Ms. Annick Aubert	SP-304
Community and Legal Aid Services Program, York University Ms. Nadia Chiesa Ms. Amy Wah	SP-305
Canadian Medical Protective Association Dr. William Tucker Dr. John Gray Mr. Domenic Crolla	SP-308
Sound Times Support Services Ms. Lana Frado	SP-311
Ontario Hospital Association. Mr. Tom Closson	SP-312
Ontario Psychological Association	SP-315
HIV and AIDS Legal Clinic (Ontario)	SP-317
Ms. Jo-Ellen Worden	SP-319
Schizophrenia Society of Ontario, East York chapter Ms. Vicky Voukelatos	SP-321



SP-13





SP-13

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Monday 8 September 2008

Journal des débats (Hansard)

Lundi 8 septembre 2008

Standing Committee on Social Policy

Services for Persons with Developmental Disabilities Act. 2008

Comité permanent de la politique sociale

Loi de 2008 sur les services aux personnes ayant une déficience intellectuelle

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 8 September 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 8 septembre 2008

The committee met at 0902 in room 151.

SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES ACT, 2008

LOI DE 2008 SUR LES SERVICES AUX PERSONNES AYANT UNE DÉFICIENCE INTELLECTUELLE

Consideration of Bill 77, An Act to provide services to persons with developmental disabilities, to repeal the Developmental Services Act and to amend certain other statutes / Projet de loi 77, Loi visant à prévoir des services pour les personnes ayant une déficience intellectuelle, à abroger la Loi sur les services aux personnes ayant une déficience intellectuelle et à modifier d'autres lois.

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, I'd like to call this meeting of the social policy committee to order. As you know, we're here for clause-by-clause hearings on Bill 77, An Act to provide services to persons with developmental disabilities, to repeal the Developmental Services Act and to amend certain other statutes. I'm informed by the powers that be that we have well in excess of 200 amendments, so I would invite efficiency from all parties concerned.

If there's any general business to be considered, I'd open the floor for consideration of that. Otherwise, we'll go to the motions.

Ms. Sylvia Jones: Chair, if we could just have a few minutes for overall comments. As you point out, there are 200 amendments, so if we could get an opportunity to do some general statements first.

The Chair (Mr. Shafiq Qaadri): Please.

Ms. Sylvia Jones: I guess what I'd like to do in starting is say that I'm a little disappointed that we haven't seen more substantive amendments from the government, when I review what our researcher, Ms. Campbell, prepared. She did an excellent overview of what we were hearing on the four days of hearings, and there were many consistent themes that came forward—themes about concern with more bureaucracy with the application centre and themes about a desire to have more input with the use of independent planners. I'm not seeing that transferred into the government motions that have come forward. I think that after 30 years, we owe

them more. We owe this sector more than just some minor tinkering to a bill that hasn't been substantively changed in 30 years.

When I read the briefs, this sector is clearly looking for more involvement, not further bureaucracy with the creation of the application centres. They're looking for more involvement through the use of individualized planning, not more bureaucracy through the creation of the application centres. I believe that once again you've set up the developmental disabilities sector as second-class citizens in Ontario as we move forward.

I guess I just want on the record that I'm disappointed we haven't done a better job of listening to those four days and responding to them.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. The floor is open for any further comments or questions.

Mr. Paul Miller: Obviously, the NDP has some problems with this bill, and as we progress through the day, we'll enlighten the community with our concerns and our explanations of individual clauses that don't meet what we feel are the specs for a decent service for the community and the people involved.

Services and supports for people with developmental disabilities and their families should be delivered on a not-for-profit basis, and Bill 77 fails to ensure that services and supports will be provided by non-profit entities, agencies or recipients. This legislation is more focused on managing wait-lists and sidelining pockets of funding to entities that will rationalize services to manage costs than it is on enhancing and guaranteeing quality services and supports.

That's all I'd like to say at this point, Mr. Chair. We will have other comments as the day progresses, and I'll be filling in until noon for Mr. Prue, who is involved in another matter.

The Chair (Mr. Shafiq Qaadri): Indeed.

Mr. Paul Miller: I'm new to this committee and obviously I've been thrown into this at the last minute, so if there are any holdups, please bear with me.

The Chair (Mr. Shafiq Qaadri): Mr. Ramal.

Mr. Khalil Ramal: I think when we travelled the province of Ontario, we listened to many stakeholders—families, communities, organizations—and they had different opinions on many different things, and as a government our role is to take them into our consideration and also come with a reasonable approach to make sure

all the sectors are being looked after and being served. As we went through all the submissions from many different communities and organizations who deal with people with disabilities, I think we came to conclusions, and our conclusion is to serve the people with disabilities to the best of our ability. I believe our amendments to this bill reflect our intentions and our direction, and I hope when we go through the whole thing we'll explain our thoughts and direction in the next two days.

The Chair (Mr. Shafiq Qaadri): If there are no further comments on the floor, I'd now invite submission of the first motion, NDP motion 1.

Mr. Paul Miller: I move that the bill be amended by adding the following section:

"Purposes

"0.1 The purposes of this act are,

"(a) to recognize that the inclusion of all residents of Ontario, including persons with developmental disabilities, is the foundation of a strong Ontario;

"(b) to promote the delivery of services to persons with developmental disabilities so that the services are,

"(i) available at a consistent level across the province, and

"(ii) based on person centred planning to assist the person and his or her personal network to plan for a life in the community; and

"(c) to ensure that core mandated services are provided to persons with developmental disabilities."

The explanation: Inclusion should be the right of citizenship for all Ontarians, and it is, in principle, embraced in our education system and should continue to be embraced for all residents once they become adults. This ideal is at the core of community living and thus must be recognized in this bill. Mandated core services ensure that those with a developmental disability access services based on need and a consistent level province-wide.

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments?

Mr. Khalil Ramal: I think we are going to put, as the government, a motion to reflect all the requests and concerns from many different stakeholders, communities and families to reflect our intent of the bill, which is that we believe in inclusion, and by changing the title of the bill in order to reflect the stature of the bill and send a clear message to the people. We believe 100% that people with disabilities will be included in our daily life and given the support they need in order to participate in daily life like everyone else.

Mr. Paul Miller: Could I ask the legislative counsel for further explanation of this and some clarification on that statement?

The Chair (Mr. Shafiq Qaadri): Yes. Please phrase your exact request, Mr. Miller.

Mr. Paul Miller: I'm asking legislative counsel for further explanation.

Mr. Michael Wood: Actually, I didn't hear all of the remarks of Mr. Ramal.

Mr. Khalil Ramal: I'll repeat what I said. Lately—many bills have a preamble, but in general the preamble

is already designated for a broader bill, and therefore I guess it's not necessary to have a preamble in this one here. That's why we believe strongly in changing the titles to include the inclusions and to describe our intent for the bill. That's what we're trying to do further when we debate different motions, because we are bringing a motion to reflect our views and our direction in this bill.

The Chair (Mr. Shafiq Qaadri): Mr. Wood, preamble, bill past second reading—enlighten us.

Mr. Michael Wood: There are two things to distinguish here: One is a preamble, and this motion does not add a preamble; the other is a purpose clause. The purpose clause is part of the bill and certainly therefore affects the interpretation of the bill. As I understand it, Mr. Ramal is saying that the amendments the government is proposing deal with the issues in the purpose clause. All I can say, from a neutral point of view, is that a purpose clause does affect the interpretation of a bill, and there is some danger that if something is in the purpose clause and is not in the content of the bill, the purpose clause could affect the content of the bill. Conversely, if all of the amendments are in the bill, then a purpose clause, in a way, becomes redundant.

0910

The Chair (Mr. Shafiq Qaadri): Thank you. If we're ready to consider NDP motion—yes, Mrs. Elliott.

Mrs. Christine Elliott: I'd like to make a comment. I find all this very confusing. We're concerned about the purpose clause being stated in this legislation as well, and that it's important to set the tone for the rest of the bill. To the point that our priority was to actually change the name and to add a purpose clause, we were told by legislative counsel that we could not change the name of the bill because the inclusion bit was not included in the bill. So I think it's absolutely necessary to include a purpose clause and to have the intention of inclusion reflected in the bill, if that is in fact what you intend to do. But legally, I understand, it can't be changed because there's no indication of social inclusion within the bill itself, as drafted.

The Chair (Mr. Shafiq Qaadri): Thank you, Mrs. Elliott. If there are no further comments, questions or queries, then we'll proceed to the consideration of NDP motion 1. Those in favour of NDP motion 1, if any? Those opposed? I declare NDP motion 1 lost.

We'll now proceed to PC motion 1. I invite Mrs. Elliott to present.

Mrs. Christine Elliott: I move that the act be amended by adding the following section:

"Purposes

"0.1 The purposes of this act are,

"(a) to recognize that persons with developmental disabilities are equal and valued citizens of the province of Ontario and have the right to make decisions about their lives; and

"(b) to promote the delivery of services and supports to persons with developmental disabilities based on the principles that, "(i) persons with developmental disabilities have the rights of citizenship, including access to justice, health care, education and transportation,

"(ii) many persons with developmental disabilities experience barriers that prevent them from enjoying their rights of citizenship and hinder their full participation in the social and economic life of the province on an equal basis with others,

"(iii) services should enhance opportunities of persons with developmental disabilities to enjoy the rights of citizenship and participate fully in the social and economic life of the province on an equal basis with others, and

"(iv) supports should assist persons with developmental disabilities to strengthen relationships and facilitate community supports, but should not replace them."

We put forward this amendment because there were nine separate organizations that we heard from in the course of the hearings that stressed to us how important it was to have a purpose clause stated in this legislation, that it sets the tone and sets out exactly what they're hoping this legislation is going to achieve, which is more than just the coordination of service agencies; it's to allow full social inclusion of everyone with special needs in our communities. And this act, as drafted, doesn't do that.

Our hope is that, starting with this statement of a purpose clause, the amendments that we're proposing on behalf of the many groups that spoke to us will reflect that inclusion piece, which is vital to the transformation that the sector is hoping to have achieved with this bill.

The Chair (Mr. Shafiq Qaadri): Any questions, comments?

Mr. Khalil Ramal: As I mentioned earlier, when we responded to the NDP motion, the same response would be that, in the past, no bill had a preamble because, normally and typically, all the preambles were designed and designated for a broader bill, like a Charter of Rights. But lately, many people are trying to introduce a preamble for every bill. But we think that clearly, in this position in this bill, amending the short title would provide and reinforce the government's commitment toward schools and would be enough in order to clarify our intent and our direction.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal. Are there any further comments? Seeing none, we'll proceed now to the consideration of PC motion 1A. Those in favour? Those opposed? Defeated.

We'll now proceed to NDP motion 2.

Mr. Paul Miller: I move that the definition of "application centre" in section 1 of the bill be struck out and the following substituted:

"application centre' means a central intake service described in section 8;"

The Chair (Mr. Shafiq Qaadri): Are there any comments, questions? We'll proceed directly to the consideration, then. Those in favour of NDP motion 2?

Mr. Paul Miller: No explanation on that?

The Chair (Mr. Shafiq Qaadri): You're welcome to, please, Mr. Miller.

Mr. Paul Miller: An application centre, as currently described in the bill, is an added level of bureaucracy that diverts resources away from service agencies that provide direct services. There is no stipulation that the application centres or entities be not-for-profit. The NDP amendment defines "application centre" in a way that describes it as a function of the service agencies in a geographic area as intake, assessment and person-centred development mechanisms. It is described further in subsequent amendments in the NDP motion to section 8.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: Again, going back to the very well prepared research paper done by Ms. Campbell, we come back to what we heard on those four days of public hearings and what we read in the presentations that came forward: the concerns about the application centres. The minister has already gone on record to say that there will be no additional funding to operate the application centres, so obviously people in the sector have made the proper assumption that it's going to pull money, pull funding, away from existing services that are already clearly underutilized, underfunded, at this point. We had almost without exception, brief after brief, presentation after presentation saying the application centres are not needed to improve services and in fact will become another impediment, another bureaucracy. So obviously I'm pleased to support it. This, to me, is central to what Bill 77 should be, and we have to remove that application centre and that bureaucracy that's going to come with it.

The Chair (Mr. Shafiq Qaadri): Mr. Ramal.

Mr. Khalil Ramal: I want to respond first to Mr. Miller, when he mentioned the application centres and also that the service provider should be a non-profit one. Our intent in this bill is to create flexibility and choice for families, whether they choose a community centre or community organizations, and we don't intend to interfere with their choice.

The second one is for Ms. Jones, when she mentioned the application centres. Definitely, we listened to the concerns from many different stakeholders who came before the committee and presented to us, and they told us about the application centres. That's why our government proposed an amendment to application centres of which our focus and aim is to eliminate the concept of application centres by introducing two different entities. So we'll be speaking about this one when we propose our amendment.

The Chair (Mr. Shafiq Qaadri): We will proceed now to consideration of NDP motion 2. Those in favour? Those opposed? I declare the NDP motion defeated.

We'll now proceed to consideration of PC motion 2A.

Ms. Sylvia Jones: I move that the definition of "application centre" in section 1 of the bill be struck out and the following substituted:

"application centre' means an application centre referred to in section 8;"

I won't repeat what I said in the previous amendment, but it all stands.

Mr. Khalil Ramal: I also want to repeat that we're proposing something to eliminate the concept of application centres, as mentioned when we went in the committee, and by two different entities we'll reflect our views and our directions in the future.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 2A? Those opposed? Defeated.

Government motion 3.

Mr. Khalil Ramal: I move that the definition of "application centre" in section 1 of the bill be struck out.

The purpose of the motion is to amend the bill to outline an application process where application entities and funding entities perform the functions that were formerly centralized in application centres. That's what we meant, to eliminate the concept of application centres, as we spoke about it in the beginning when we introduced the bill. Now we're coming up with two entities: one to process information through a community or a stakeholder in different geographic jurisdictions; and also we have a different one to provide funding. So we came up with two proposed changes in order to reflect the concern being voiced by many stakeholders who came and spoke to us at the committee. We made two separate entities, just to make sure that there's no conflict of interest by the people who assess the people and also the people who give them funding. So I think we are in line with the people who came and advised us and the native organizations who spoke in those terms. 0920

The Chair (Mr. Shafiq Qaadri): Any comments?

Mr. Paul Miller: I beg to differ with the explanation. Obviously, we disagree with the application centre as described in this bill. We believe that the function of that situation should improve the overall delivery of services to the people of Ontario, not impede it.

Mr. Khalil Ramal: We listened to many different stakeholders when they spoke to the committee and they told us about many different areas. Their process, their performance—it's working, and people have been satisfied with them. Therefore, our government listened to them. We are going to depend on those people who are full of experience, who experienced in the past their ability to serve the community very well. So therefore, the first entities for the application process will consult and depend on that expertise in order to assess the people with disabilities in order to make them eligible for funding. We want to make different bodies in order to not create a conflict of interest.

Mr. Paul Miller: Once again, we disagree with that concept. We believe that families, when they choose the type of service that they need, sometimes have to be guided through that process because they're not aware of all the pitfalls that may occur, so we need the application centre and people to guide them through that process. Through the initial process—we don't believe that's enough.

Mrs. Christine Elliott: I'll be brief. We certainly do agree with the concept of eliminating the application centre; unfortunately, we don't agree with what's pro-

posed to substitute it with. We'll get to that when we deal with the more substantive amendments on that section.

Mr. Khalil Ramal: There are people from many different areas—this is in response to Mr. Miller—who are dependent on community organizations, community living or others, to assess their loved ones. We listened throughout our consultations across the province of Ontario. Many people came and spoke to us and they told us about different models that are already working across Ontario. We listened to the people when they talked about application centres, that they would create a different bureaucracy. But in order to also eliminate the conflict of interest—when you are a person who assesses and a person who funds, we found that that's a conflict of interest. So we created two entities, one entity to assess people and another one to provide funding. We thought that this was the best approach to serve people with disabilities.

Mr. Paul Miller: Maybe you could explain to me why that is eliminating more bureaucracy, having one funding group and another one to deal with the application. Is that not going to require more people? Maybe you can explain that situation to me.

Mr. Khalil Ramal: An "entity," which means an organization or people who work in the community for many years who have the expertise—they can provide assessments, which is already done by those people at the present time. I don't think we've added any bureaucracy, but we're dependent on them. As we went across the province and listened to people, they were against an application centre like what was talked about in the bill. So we went back to the people. We listened to them and the special organizations in the communities who have been doing it for a long time.

Mr. Paul Miller: I'm a little confused, because you have also created LHINs. What role are the LHINs going to play in this situation?

Mr. Khalil Ramal: This has nothing to do with the LHINs.

Mr. Paul Miller: It does, because it's another level of bureaucracy.

Mr. Khalil Ramal: Mr. Miller, we're talking about entities that assess people that already exist. We're not adding anything.

Mr. Paul Miller: My question to you is, what will the role of the LHINs be? In my area, they'll be overseeing 267 different agencies. Are they going to fall under that umbrella?

Mr. Khalil Ramal: Mr. Miller, we're talking about Bill 77—

Mr. Paul Miller: I'm talking about LHINs.

Mr. Khalil Ramal: —in the Ministry of Community and Social Services. The other ones belong to the Ministry of Health. If you have any questions about that, I would go to the Minister of Health and ask him.

Mr. Paul Miller: Thank you. I guess I'll have to live with that explanation.

The Chair (Mr. Shafiq Qaadri): Are there any further questions, comments, queries, debates? If not, we'll now move to consideration of government motion 3.

Those in favour? Those opposed? I declare government motion 3 carried.

Government motion 4.

Mr. Khalil Ramal: I move that section 1 of the bill be amended by adding the following definitions:

"application entity" means an entity designated by the minister under subsection 8(1) with respect to an application under part V for services and supports or for funding, or both, under this act;...

"funding entity" means an entity designated by the minister under subsection 8(3) with respect to prioritizing the provision of services and supports and funding under this act:

We try in this motion to clarify what our "entity" means in terms of technicalities.

The Chair (Mr. Shafiq Qaadri): Thank you. Com-

ments? Questions? Explanations?

Mrs. Christine Elliott: This is a critical piece of this legislation and it's very vague to me. It's not clear to me who exactly is going to be the application entity. It looks like it can be some kind of a non-profit corporation cobbled together with a bunch of service agencies. Then the funding entity—I guess it's going to be left to the regulations to figure out who that's going to be, who are going to do the service plans. So (a) you haven't eliminated the conflict issue that so many organizations spoke about, and (b) whom are we really talking about here? This is very confusing, and I think it's really not going to reach the purpose intended by the many, many people who spoke to us, who spoke very clearly about what they saw the structure to be. I have significant concerns with this section.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: We are dealing with government motion number 4, correct?

Mr. Khalil Ramal: Yes.

Mr. Paul Miller: We oppose this motion because there's no guarantee in this bill that these entities will be not-for-profit. The NDP does not support the government amendment setting up funding entities, because the bill is amended by the government and excludes community-based agencies from functioning as funding entities and does not stipulate funding entities to be non-profit.

The NDP also does not support the purpose of funding entities, which will prioritize funding rather than provide funding based on the needs of the individuals and their families. We believe that services and supports need to be provided consistently across the province through a not-for-profit, person-centered approach.

This also fragments a large sector of our economy.

Mr. Khalil Ramal: First: Mrs. Elliott, we went in a committee across the province and listened to the people talking about the process that assesses people to be eligible for funding. We on this side of the table believe that the entity could be a service provider that has expertise in this field. Also we believe strongly that, when we set up the regulation rules for this bill, we would be setting the qualifications and also the standards that should be required in order to be able to assess people's disabilities.

Ms. Sylvia Jones: The way that interpretation comes back to me is, I would have concerns that if your funding entity ends up being a service provider, the individual seeking the services is not going to have the full breadth and range available to him. We come back to, "Well, this is the slot available and you came in on Monday, so here you go." It's taking away the ability for the individual to have that individualized planning and unbiased view of what's best for them, what's their life plan, where do they envision themselves. That comes down to, as you explained, how you see service entities being service providers. There's the problem: You can't do both.

Mr. Khalil Ramal: We separate into two entities: one to assess and one to fund. That's why we want to eliminate the conflict of interest in this regard. The service providers who have been doing this assessment for many different years we believe strongly have the expertise to continue to assess the person with the disability and give us the result, if they're eligibility or ineligibility. That's why we separate between the two entities, in order to create some kind of clarity and transparency with our approach.

0930

Mrs. Christine Elliott: But there is another conflict there that has not been addressed besides just the funding conflict. The conflict is between the services that just strictly a service agency provider can provide and the whole other part of the inclusion into the community that a planner developing a life plan for the person can provide. So you may have a situation where the service provider will say that there is only X service available, but the person wants much more than that, something the service provider can't provide and may not even know about and may be in conflict with another agency organization that can plan that. So that's what we see as still a significant conflict that hasn't been addressed here.

Mr. Khalil Ramal: I don't see where you see the conflict of interest in this regard, since we are separating between the funders and the assessors. As you know, the people have been doing it for many years, and I think full confidence in the community organizations already exists in our communities across the province of Ontario in order to assess people with disabilities, and they've been able to do so for many years. I don't see why we can't continue with the same parameters and directions. They came before our committee many different times and told us about many different experiences and different projects done, whether in Toronto or in other places in the province of Ontario. They've been successful in dealing with the assessment of people with disabilities, so why not continue in the same direction?

Mr. Yasir Naqvi: One of the examples that struck me a lot when we were travelling with the committee was in Lambton county. I remember them coming in and talking about the system they have created within the county, which is a very integrated system in terms of working with persons with developmental disabilities and families. They were concerned that this so-called application centre would take away from the kind of approach they

have built at the local level. My understanding is that by creating an application entity, a system like that of Lambton county could potentially become the application processing mechanism within that level and leverage the great expertise they have created. So in a sense, I think we are quite effectively responding to what we heard from the stakeholders and taking away that bureaucracy, the application centre, and delegating at the local level so that things can be done more effectively, in the end, by the system which has been created, as opposed to somebody else looking from above. I think those are the kinds of concerns we discussed during the committee and in other places as well.

Mrs. Christine Elliott: Certainly we did hear that, and I think there are many wonderful community organizations working together to provide the best possible services for their clients. The concern, though, I believe. is that it's much bigger than that. It's not just a question of looking at, do you have a space in your group home? Those are core services that those agencies provide, and I know they do a great job with very limited resources. But I think what was also stressed was the need for the independent planner to consider all of the other aspects of the person's life beyond that. I think there's a great need for those community agencies to continue to work together to provide those services, but there needs to be another entity above that that's looking and trying to facilitate that social inclusion piece into society that the agencies may not be able to do.

To me, to have the funding entity being the one that then goes and develops the plan without communication with the person, necessarily, seems rather disjointed. How will they know (a) what's there locally to build on, and (b) what the person really wants? To have the plan being developed by the funder doesn't really make sense to me. I think you really need that independent facilitation piece for this whole transformation to work.

Mr. Khalil Ramal: We talk about the funders and also the assessors, so we differentiate between them.

Mrs. Christine Elliott: But the funding entity is the one, according to the bill, as I understand it, that develops the plan. That's what it says.

Mr. Paul Miller: I think the government is sending mixed messages here. In the original Bill 77, the government had identified an application centre as having a dual purpose, as both intake and funding prioritization service. The government has now made an amendment that divides the application centre into two separate roles. The application entity is largely an intake entity, while the funding entity will prioritize which services and supports will be funded for an individual with a developmental disability.

I don't understand how the member can keep saying that they're going to have less bureaucracy, when you've taken your original concept and now divided it into two different groups, which are going to require professionals in those two areas to be hired, because instead of one person dealing with it up front, you're going to have to have two different people with expertise dealing with the

same patient. Bigger is not better, in my opinion. The more people involved, the more complicated it becomes, and I think service goes down, not up. So obviously, I can't support this part of the amendment to this bill.

Mr. Chair, is it possible to get a 10-minute recess? I have some additional information that has come in.

The Chair (Mr. Shafiq Qaadri): Yes, if it's the will of the committee, we can recess for 10 minutes. Shall we consider this motion before we go?

Mr. Paul Miller: Yes, thank you, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): We'll now proceed to government motion 4. Those in favour, if any? Those opposed? I declare government motion 4 carried.

We'll now have, as requested, if it's agreeable to the committee, a 10-minute—exactly 10-minute—recess. It's 9:35 by my watch.

The committee recessed from 0935 to 0945.

The Chair (Mr. Shafiq Qaadri): I think we have quorum for which to resume our deliberations. I now invite the presentation of government motion 5.

Mr. Khalil Ramal: I move that the definition of "direct funding" in section 1 of the bill be amended by striking out "application centre" and substituting "application entity."

We described earlier the division, or segregation, between the application entity and also the funding entity.

The Chair (Mr. Shafiq Qaadri): Any comments?

Ms. Sylvia Jones: It just comes back to what we were listening to. What we heard were families' and individuals' desire to have that option, and by not leaving in the direct funding designation, you're actually making them more nervous, because now we've got this application entity. I'm not sure we're moving ahead in terms of making the sector any more comfortable with what Bill 77 is going to turn into.

Mr. Paul Miller: I obviously would not support this situation, because it sure is making it more complicated. And with all due respect to the opposition party, I don't want third party planners. That's creating more bureaucracy and that's the last thing we need at this particular time.

The Chair (Mr. Shafiq Qaadri): Any comment? If not, we'll proceed to government motion 5. Those in favour? Those opposed? Motion 5 carried.

Government motion 6.

Mr. Khalil Ramal: I move that the definition of "service" in section 1 of the bill be struck out.

If we go back to section 4 of the bill, we can see why we came forward with these changes in order to clarify our intentions, also talking about the support and staff services so all would be clarified—and further motions are being proposed by the government to strengthen our intent and our action to improve the lives of people with disabilities.

Mr. Paul Miller: We will be voting in favour to show our non-particism, what's better for the people of Ontario. We're voting in favour with the government on this one.

The Chair (Mr. Shafiq Qaadri): Your non-partisanship?

Mr. Paul Miller: Yes. Thank you; that's two words

today.

The Chair (Mr. Shafiq Qaadri): Fine. We certainly welcome that.

We'll now consider government motion 6, if there are no further comments. Those in favour? Those opposed? I declare government motion 6 to have been carried.

Government motion 7.

Mr. Khalil Ramal: I move that the definition of "service agency" in section 1 of the bill be struck out and

the following substituted:

"'service agency' means a corporation or other prescribed entity that provides services and supports to, or for the benefit of, persons with developmental disabilities and that has entered into a funding agreement with the minister under section 10 with respect to those services and supports; ('organisme de service')"

These are some clarifications describing our intent and

our definitions of the service agencies.

Mr. Paul Miller: Will this be a not-for-profit situ-

ation? Is the answer "no" to that?

Mr. Khalil Ramal: Our aim from day one to create a choice for families has been told over and over. The family has a right to choose what kind of service they are seeking for their loved one.

Mr. Paul Miller: So your answer is no?

Mr. Khalil Ramal: It's not set out whether it will be profit or non-profit, just to keep it for the family to choose.

Mrs. Christine Elliott: Again, our concern is that this is another change that's not really substantive, that's not really going to achieve the purpose intended because it's talking about supports. But again, the structure that is being created under this bill only sets up institutional supports and not the other supports that achieve the inclusion in the community that is the stated purpose, anyway.

The Chair (Mr. Shafiq Qaadri): We will proceed now to considering government motion 7. Those in favour? Those opposed? Government motion 7 is carried.

Government motion 8.

Mr. Khalil Ramal: I move that section 1 of the bill be

amended by adding the following definition:

"Service and support' means a service and support described in section 4 that is provided to a person with a developmental disability, or for the benefit of such a person."

If we go back to section 4 of the bill, we'll outline the kind of service and support we're talking about here—so whether it's residential activities, community participation, caregiver professionals or any prescribed service and support.

Mr. Paul Miller: Once again, in the spirit of nonpartisan voting, we will support the government on this.

0950

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Those in favour of government motion 8? Those opposed? Government motion 8 is carried.

As we've now considered the multiple amendments for section 1, I will now consider section 1, as amended. Shall it carry? Carried.

We'll now consider government motion 9.

Mr. Khalil Ramal: I move that section 2 of the bill be amended by striking out "services" wherever that expression appears and substituting in each case "services and supports."

As we mentioned, to send a message of inclusion, we added "supports" to "services" wherever it appears in the

DIII.

The Chair (Mr. Shafiq Qaadri): Mr. Miller. Mr. Paul Miller: I'm comfortable with that.

The Chair (Mr. Shafiq Qaadri): Any further comments? No. We'll consider government motion 9. Those in favour? Those opposed? Motion 9 is carried—which is, I believe, the entire amendments for section 2.

Therefore, shall section 2, as amended, carry? Carried.

NDP motion 10.

Mr. Paul Miller: I move that clause 3(1)(a) of the bill be struck out.

The reference to age has the potential to be discriminatory or exclusionary. There are many circumstances by which those with developmental disabilities have not received appropriate supports and services, or even medical diagnoses, by the age of 18. That's our reasoning behind that.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we'll consider NDP motion 10. Those in favour? Those opposed? NDP motion 10 is defeated.

PC motion 10A, which I understand is a duplicate of the previous motion.

Ms. Sylvia Jones: I'd just like to add some comments to what has already been said. The point of removing that age designation is to capture the individuals who, as has already been raised, either have not been diagnosed because they were not in Ontario prior to age 18, or for circumstances within their own personal situation where they have not, and I'm thinking of some of the autism-related designations. Those are issues that, again, have been brought up by a number of presenters over the course of the four days, so I would urge you to reconsider your previous quick vote.

The Chair (Mr. Shafiq Qaadri): I've just been informed by the clerk that because 10A is an exact duplicate of 10, the motion's actually out of order—

Ms. Sylvia Jones: I think you should give us a second chance to reconsider.

The Chair (Mr. Shafiq Qaadri): I appreciate your advice and counsel, Ms. Jones, but I understand that we're not actually going to be voting on it.

Therefore, having no amendments carried for section 3, we will now consider section 3. Shall it carry, as is? Carried.

We'll now go to government motion 11.

Mr. Khalil Ramal: I move that subsection 4(1) of the bill be struck out and the following substituted:

"Services and supports

"(1) The following are services and supports to which this act applies:

"1. Residential services and supports.

"2. Activities of daily living services and supports.

"3. Community participation services and supports.

"4. Caregiver respite services and supports. "5. Professional and specialized services.

"6. Person-directed planning services and supports.

"7. Any other prescribed services and supports."

As we mentioned in different sections, we're going to add supports to all of the daily activities in order to show our intent of the bill: to strengthen the vision of inclusion. That's why we have supports in every different service or activity which can be carried on on a daily basis by people with disabilities.

Mr. Paul Miller: This government amendment adds "person-directed planning services and supports" to the original "services and supports" to which the act applies. The motion also changes "services" to "services and supports" throughout. We don't agree with the term "person-directed planning services and supports" and use the phrase "person-centred planning" to describe the approach that should be taken to plan for the service and support needs that an individual requires.

We agree that descriptions 1 through 5 included in this act are important and necessary, but we don't agree with number 6, "person-directed planning services and supports." The NDP supports person-centred planning services and supports, where the needs and wishes of the individual and their family are primary considerations for identifying life goals and services and supports based on needs, which are best provided through a not-for-profit, community-based system. Person-directed planning, particularly in the context of Bill 77, suggests that individuals with a developmental disability and their family navigate the myriad of services and supports on their own, without the benefit of assistance from community-based agencies.

Are all of these services and supports listed here going to be provided on a not-for-profit basis, Mr. Ramal?

Mr. Khalil Ramal: I think I answered this question before. The aim and goal for the bill is to create a choice for families, and the family will choose whatever service they wish and consider for their loved one.

Mr. Paul Miller: So the answer is no.

What is meant by "significant others of their choice" as it relates to person-directed planning? It sounds remotely like a third party broker. I'll read the following for you:

"I cannot agree with person-directed planning as described in this act. It is particularly problematic within the context of the significant changes this bill will introduce, such as brokers, third parties and significant others of their choice."

What does that mean, Mr. Ramal? Could you explain that?

Mr. Khalil Ramal: I'll explain it to you. The aim of the bill is to create flexibility and create a choice for families—whatever they wish. They would love to see their loved one serviced by certain people, so that will be so.

Mr. Paul Miller: I think this is creating a potential for an unaccountable third party, because third parties in this act are not subject to accountability measures, like service agencies or application-funding entities are. I believe in person-to-person-centered planning services and supports instead. They are centered around the individual and those closest to them and identifying the goals and needs to get them their services and supports, based on a not-for-profit, community-centered model. That's why we will oppose this.

Mrs. Christine Elliott: We're certainly pleased to support this section, particularly with respect to the inclusion of number 6. Person-directed planning services and supports we see as being integral and really important for the success of this bill, for a couple of reasons. One is the ability to centre the services on the person, and not to talk about what service might be available but what the person wants, and to build a plan around that. I think that's key.

As well, the concept that the persons have significant input into decision-making themselves: We heard a lot about that through the supported decision-making. I believe we got some additional information on that. The extent to which persons themselves can make decisions about their life is truly the way to achieve that kind of inclusion that we're seeking, so we're pleased to support this bill. Although we have some significant disagreement on the way we would like to see it implemented, we certainly agree with the concept.

Mr. Paul Miller: Once again, I have grave concerns about creating another level of bureaucracy. It appears that the government and the opposition want to do this with this situation. I don't want third party planners involved in this situation. Bigger is not better. I hate to reiterate, but bigger is not better, and more hands in the pot create controversy and problems.

The Chair (Mr. Shafiq Qaadri): We'll proceed to consideration of government motion 11. Those in favour? Those opposed? Government motion 11 carries.

Government motion 12.

Mr. Khalil Ramal: I move that the definitions of "activities of daily living support services," "caregiver respite services," "community participation support services" and "residential support services" in subsection 4(2) be struck out.

We mentioned some technicalities in order to strengthen our vision and directions in terms of creating inclusion in our directions.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: Once again, the NDP will support the government. I'm still waiting for one my way. When is that going to happen?

Mr. Khalil Ramal: It's coming.

Mr. Paul Miller: It's coming? Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Any further comments? Consideration of government motion 12: Those in favour? Those opposed? Government motion 12 is carried.

Government motion 13.

Mr. Khalil Ramal: I move that subsection 4(2) of the bill be amended by adding the following definitions:

"activities of daily living services and supports' means services and supports to assist a person with a developmental disability with personal hygiene, dressing, grooming, meal preparation, administration of medication, and includes training related to money management, banking, using public transportation and other life skills and such other services and supports as may be prescribed;...

1000

"caregiver respite services and supports' means services and supports that are provided to, or for the benefit of, a person with a developmental disability by a person other than the primary caregiver of the person with a developmental disability and that are provided for the purpose of providing a temporary relief to the primary caregiver;...

"community participation services and supports' means services and supports to assist a person with a developmental disability with social and recreational activities, work activities, volunteer activities and such other services and supports as may be prescribed;...

"'person-directed planning services and supports' means services and supports to assist persons with developmental disabilities in identifying their life vision and goals and finding and using services and supports to meet their identified goals with the help of their families or significant others of their choice;...

"residential services and supports" means services and supports that are provided to persons with developmental disabilities who reside in one of the following types of residence and includes the provision of accommodations, or arranging for accommodations, in any of the following types of residences, and such other services and supports as may be prescribed:

"(1) Intensive support residences.

"(2) Supported group living residences.

"(3) Host family residences.

"(4) Supported independent living residences.

"(5) Such other types of residences as may be prescribed;..."

All this explanation is just to define what we said in terms of supports and what kinds of services people with disabilities might seek and the plan, all to explain section 4 of the bill when we mentioned what kinds of services and supports there might be available for persons with disabilities if this bill passes.

Ms. Sylvia Jones: The subsection is really only adding the person-directed planning services and supports, which obviously we're happy to support. I guess my question then becomes where it fits in as the individual goes through the process for applying for the services, and we'll be monitoring that. But we're pleased to support this amendment.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: This being number 13—I'm correct?

The Chair (Mr. Shafiq Qaadri): Government motion 13.

Mr. Paul Miller: Most of the definitions are fine, but we should reiterate that we support individuals and their families and those close to them in making decisions based on person-centred planning, that services should be not-for-profit and that we do not support the phrase "person-directed planning." It is again included here and the definition is problematic. In the context of this bill that sets up the use of private brokers and third parties who will have little accountability in the mechanisms, it's very worrisome to us what the opposition and you are pushing in this situation. Again, I have to ask, will the services and supports identified in this section be not-for-profit?

Mr. Khalil Ramal: I repeat my response. We want to keep the flexibility and choice for the family.

Mr. Paul Miller: Well, I'm afraid I'm going to have to go the other way on this one. I'm sorry, we'll be against this.

Mr. Khalil Ramal: It's your choice.

The Chair (Mr. Shafiq Qaadri): Consideration of government motion 13: Those in favour? Those opposed? Government motion 13 carried.

Government motion 14.

Mr. Khalil Ramal: I move that the definitions of "supported group living residence" and "supported independent living residence" in subsection 4(2) of the bill be amended by striking out "services" wherever that expression appears and substituting in each case "services and supports."

I think this is very clearly just to add supports to whenever "services" appears, in order to strengthen our directions toward inclusion and include people with disabilities in our daily life.

The Chair (Mr. Shafiq Qaadri): Any comments?

Mr. Paul Miller: We believe this is just a little housecleaning, and we will support this.

The Chair (Mr. Shafiq Qaadri): Those in support of government motion 14? Those opposed? Motion 14 is carried.

Shall section 4, as amended, carry? Carried.

Having received to date no amendments to for section 5, we'll proceed immediately to its consideration. Shall section 5 carry? Carried.

We'll now proceed to NDP motion 15.

Mr. Paul Miller: I move that the bill be amended by adding the following part:

"Part II.1, Bill of Rights

"Bill of Rights

"5.1(1) Every service agency or other service provider under this act shall ensure that the following rights of persons with developmental disabilities receiving services or funding are fully respected and promoted:

"1. Every person with a developmental disability has

the right to live free from discrimination.

"2. Every person with a developmental disability has the right to raise concerns, recommend changes or complain without interference and without fear of coercion, discrimination or reprisal.

"3. Every person with a developmental disability has the right to respect for his or her dignity and promotion of autonomy.

"4. Every person with a developmental disability has the right to be dealt with by the service provider in a manner that recognizes the person's individuality and that is sensitive to and responds to the person's needs and preferences, including preferences based on ethnic, spiritual, linguistic, familial and cultural factors.

"5. Every person with a developmental disability has the right to be informed of programs and services and of the laws, protocols, policies and complaint procedures

that govern him or her.

"6. Every person with a developmental disability has the right to enjoy personal privacy, including expectations of daily living such as the freedom to have private telephone conversations.

"7. Every person with a developmental disability has

the right to a healthy, clean physical environment.

"8. Every person with a developmental disability has the right to a nourishing diet, exercise and access to health care.

"9. Every person with a developmental disability has the right to have his or her personal decisions respected.

- "10. Every person with a developmental disability has the right to privacy of and access to his or her personal information in accordance with the law.
- "11. Every person with a developmental disability has the right to receive services and supports that are provided on a not-for-profit basis.

"Further guide to interpretation

- "(2) Without restricting the generality of the fundamental principle, the following are to be interpreted so as to advance the objective that a person's rights set out in subsection (1) are respected:
- "1. This act, the regulations and the policy directives under this act.
- "2. Any agreement entered into between a service agency or other service provider, a person receiving services or funding under this act and the minister or an agent of the minister.

"Deemed contract

"(3) A service agency or other service provider shall be deemed to have entered into a contract with each person receiving services or funding from the service agency or service provider, agreeing to respect and promote the rights set out in subsection (1).

"Accessibility

"(4) The minister shall make the bill of rights available in plain language and in accessible formats, such as pictograms.

"Notice

"(5) Service agencies and other service providers shall notify persons receiving services or funding under this act of the bill of rights."

This is common human rights, common respect for the people of this province, and I hope that the government will support this motion.

Mrs. Christine Elliott: There is a lot to agree with in this bill of rights, virtually everything in fact, except that we can't agree with number 11 with respect to the provision of services only by a non-profit agency. What we should be guided by is the best interest of the person and what services are available for them to meet their needs, be they for profit or not for profit. So I don't think that we can cut that off, where the paramount consideration needs to be the needs and rights of the individual and what's best for them.

Mr. Khalil Ramal: I want to thank the members opposite for their concern about this issue. I think our government position is clear. By introducing Bill 77 to modernize the life of a person with a disability—because our intent in the end is to create some kind of accessibility for people to live like everybody else. What's clear from our statement, our mission, our title is our direction to give choice to families to choose a service for their loved ones.

1010

Also, you mentioned accessibility. It was clear in the accessibility act, 2005, when we talked about how people with disabilities have a right like everybody else to enter life and have the same opportunities as everybody else in society.

So all our actions and our statements indicate and are clear in terms of our intent to create opportunities for people with disabilities to be treated like everybody else. Also, all the agencies and organizations and community living agencies across the province of Ontario include in their mission statements their goal and intent, and all focus on the inclusions and the services for people with disabilities.

Mr. Paul Miller: So I guess the answer is that the government and the opposition are shooting down this entire dialogue that I've put forward because of one part, number 11. Would that be a fair statement? We don't even want to attempt to amend 11. We want to shut down the whole thing because of one sentence. Is this fair to say?

Mr. Yasir Naqvi: Mr. Miller, you can come to whatever conclusions you want. People with developmental disabilities, I think we heard over and over again while we were travelling with this committee, are individuals just like all of us and they have the same rights which are enshrined in the Charter of Rights and Freedoms, they have the same rights which are enshrined in the Ontario Human Rights Code, and those rights must be respected by law constitutionally. There is no need in this particular legislation to have a separate bill of rights and to treat them differently than all of us. They are human beings like us, and we need to protect their rights constitutionally, and the Constitution does protect their rights.

Mr. Paul Miller: The gentleman across from me is a lawyer from Ottawa. You are familiar with government legislation, you are familiar with amendments, and that words can be used to change meanings in the context of a paragraph or a sentence. So are you saying that all the things out of Ottawa are the same for across the country

as in the province? All the bylaws and laws are all the same? It covers everybody?

Mr. Yasir Naqvi: The Constitution of Canada applies to everyone equally, period, across the country.

Mr. Paul Miller: Well, if you change provincially—that's why I say, with respect to federally—the laws are not all the same. I'd just like to bring that forward.

The Chair (Mr. Shafiq Qaadri): If there are no further questions or comments, we'll now consider NDP motion 15. Those in favour, if any? Those opposed? The NDP motion is defeated.

We'll now consider NDP motion 16.

Mr. Paul Miller: I move that section 6 of the bill be amended by adding the following subsection:

"Consistency of service

"(2.1) A director shall take all reasonable steps to ensure that core mandated services prescribed by the regulations are funded and provided at a consistent level across the province."

An explanation of this: To uphold the commitment that individuals with developmental disabilities are included as active members of the community, it is unacceptable to leave people languishing on waiting lists. Therefore, services and supports identified under this act must be mandated services. If an individual is assessed, found to be eligible and necessary supports and services identified, then those supports and services should be provided without delay. This amendment ensures that proper steps are taken in order to do so.

The Chair (Mr. Shafiq Qaadri): Are there any comments?

Mr. Khalil Ramal: We don't agree with this motion because we believe in promoting equity by allocating resources among all the people across the province of Ontario. Therefore, this bill has stated very well that it depends on the needs of the person and not otherwise.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: Thank you, Mr. Chair. I'm still waiting for that one.

The Chair (Mr. Shafiq Qaadri): We'll now consider NDP motion 16. Those in favour? Those opposed? NDP motion 16 is defeated.

That's the full complement of amendments for section 6, so I'll now consider: Shall section 6 carry? Carried.

We'll now move to government motion 17. Mr. Ramal.

Mr. Khalil Ramal: I move that paragraph 1 of subsection 7(1) of the bill be amended by striking out "services" and substituting "services and supports."

We spoke about this one many different times. It's just a kind of technicality.

The Chair (Mr. Shafiq Qaadri): Are there any comments? We'll now consider government motion 17. Those in favour? Those opposed? Motion 17 is carried.

PC motion 17A.

Ms. Sylvia Jones: I move that paragraph 2 of subsection 7(2) of the bill be amended by,

(a) striking out subparagraph ii, and

(b) striking out "service profile" in subparagraph iv and substituting "life plan."

The reasoning behind changing "service profile" to "life plan" is that, again, it incorporates what we're trying to achieve with—we're not just talking about nine-to-five, we're not just talking about the services that are available through the providers that are government-funded. We want to look at the individual in their complete role within the community, and that inclusive piece is missing if we stick to "service profile," and that's what we're trying to do with the "life plan."

Mr. Khalil Ramal: I think that when we create the entity of assessment, we're trying to create an equity, to be the same pattern in the present and in the future, so that's why we're not supporting this motion.

The Chair (Mr. Shafiq Qaadri): We'll consider now PC motion 17A. Those in favour? Those opposed? I believe we have a tie. Perhaps we'll try that one more time.

Interjections.

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Mr. Paul Miller: Due to further consideration, I think I'll swing the vote and I'll be going against that.

Ms. Sylvia Jones: You can't change your vote either.

Mr. Paul Miller: Why can't I?

Ms. Sylvia Jones: It's like them coming in after the vote has happened and saying, "Vote again."

Mr. Paul Miller: Okay, fine.

The Chair (Mr. Shafiq Qaadri): Procedurally we are, as of this moment, tied, and I will look for direction as to what we do, since this is the first time in my experience that's happened.

I believe we're going to take a two-minute recess, if that's the will of the committee.

The committee recessed from 1020 to 1022.

The Chair (Mr. Shafiq Qaadri): I'll call the meeting once again to order. I understand that it is in fact the chairman's privilege and prerogative to cast a deciding vote in the event of a tie. After considerable deliberation and much thought, I will be voting against PC motion 17A. I declare it defeated and now invite NDP motion 18.

Mr. Paul Miller: I move that paragraph 3 of subsection 7(2) of the bill be struck out.

The explanation for this is that no person with a developmental disability should be forced to linger on a waiting list when they have been assessed and necessary services have been determined. When need has been identified, the level of service to meet this need must be provided. I think that's a pretty basic thing, Mr. Chair, that no one could disagree with.

The Chair (Mr. Shafiq Qaadri): Further comments, questions?

Mr. Khalil Ramal: We will vote against this motion because we want to create some kind of transparency across the board and consistencies when we introduce one section in other sections of the bill. That's why we're not going to go for this one, not because we don't like you, just because it's not consistent with the stature of the bill.

Mr. Paul Miller: That's not a surprise.

The Chair (Mr. Shafiq Qaadri): Now to consider NDP motion 18, if there are no comments. Ms. Jones?

Ms. Sylvia Jones: Just a quick comment: While I also have concerns about putting the waiting list in legislation, I think our amendment following deals with it in a little more proactive way.

The Chair (Mr. Shafiq Qaadri): NDP motion 18, those in favour? Those opposed? NDP motion 18 defeated.

PC motion 18A.

Ms. Sylvia Jones: I move that subsection 7(2) of the bill be amended by adding the following paragraph:

"3.1 Requirements for reducing waiting times on the waiting lists referred to in subsection 19(3)."

The Chair (Mr. Shafiq Qaadri): Any comments? Seeing none, we'll consider PC motion 18A. Those in favour? Those opposed? PC motion 18A is defeated.

PC motion 18B.

Mrs. Christine Elliott: I move that paragraph 4 of subsection 7(2) of the bill be amended by striking out "reassessing service profiles and prioritization" and substituting "reassessing prioritization." Again, this is dealing with the issue about the life plan as opposed to just a service profile, talking about prioritizing the whole plan.

The Chair (Mr. Shafiq Qaadri): Any comments on PC motion 18B?

Mr. Khalil Ramal: We're not going to support this one because we're talking about the need to create some kind of instrument to measure the needs of at-risk people in the best way to ensure that people are treated equally across the board.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 18B? Those opposed? PC motion 18B defeated.

Government motion 19.

Mr. Khalil Ramal: I move that subsections 7(2) to (4) of the bill be struck out and the following substituted:

"Application entities

"(2) A director may issue policy directives to application entities with respect to the following matters:

"1. Procedures to be followed in monitoring and administering direct funding to or for the benefit of persons with developmental disabilities under section 11.

"2. Procedures to be followed in performing the following functions:

"i. determining under section 14 eligibility for services and supports and funding under this act,

"ii. determining the method of assessment used under subsection 17(1) to assess the needs of a person with a developmental disability for services and supports under this act,

"iii. determining the qualifications and service standards of the persons who may perform the assessment under subsection 17(1) of the needs of a person with a developmental disability.

"3. Performance standards and performance measures with respect to the performance of duties of the entities under this act.

"4. Such other matters as may be prescribed.

"Funding entities

"(2.1) A director may issue policy directives to funding entities with respect to the following matters:

"1. Procedures to be followed in performing the following functions:

"i determining the method of allocating ministry resources among persons with developmental disabilities;

"ii determining the method of prioritizing persons for whom a funding entity has developed a service and support profile under section 18.

"2. Performance standards and performance measures with respect to the performance of duties of the entities under this act.

"3. Such other matters as may be prescribed.

"Classes

"(3) A policy directive may create different classes of service agencies, application entities and funding entities and may contain different provisions in respect of each class.

"Compliance

"(4) Every service agency, application entity and funding entity shall comply with the applicable policy directives."

So when we talk about the two different entities, whether for assessing people with disabilities and the people who are eligible for funding, this motion will describe the services being set in the bill and also details the definitions of the entities and the eligibilities. And when we talk about the people who are going to be eligible, the regulations will set the standards for the people who are eligible to be assessed, people with disabilities, in order to be transparent and also responsible to the people who are seeking services. So we're looking for the best available for us as a government, as a community, as a family, in order to provide good service for people with disabilities.

Mr. Paul Miller: I'd ask leg counsel for further explanations and clarifications on number 2 and number 3: "Performance standards and performance measures with respect to the performance of duties of the entities under this act." Who's going to enforce those performance standards and performance measures? Are we creating another bureaucratic body to do that? And it says, "Such other matters as may be prescribed." I'd like to know what these matters are.

The Chair (Mr. Shafiq Qaadri): I think that would probably be most appropriate not directed at leg counsel, which is obviously a different domain. So I would invite you to propose that to the committee members.

Mr. Paul Miller: Okay. If somebody can answer it, that's fine.

Mr. Khalil Ramal: In order to create some kind of transparency in terms of creating those entities, we have to create some kind of measurement, so we have to set the standards for people to be able to go and assess

persons and give them a designation. So that's why we describe in this motion our intent and our directions in order to follow all the steps, to make sure all the people measure across the board with the same measurement and create some kind of transparency and level playing field for all the people who are applying for the same service.

Mr. Paul Miller: Are these people going to be government-directed, or are they going to be individual for-profit people? Who are they and what qualifications do they need? Who's going to govern those qualifications? And will they meet the standards of the community and will they be acceptable to the clients?

Mr. Khalil Ramal: First, there has to be an expert in the field, as we mentioned at many different times, and the standards will be set out in the regulations. So we've still got a way to go for the regulations. At the present time, we're debating the bill. And hopefully after the bill passes—the bill first—the regulations will set up the standards and the qualifications required in order to assess people.

Mr. Paul Miller: And what falls under the category of "such other matters as may be prescribed"? What are we referring to?

Mr. Khalil Ramal: As you know, when you're dealing with a human being, it's not dealing with a fixed problem. And every person with a disability has unique circumstances and needs. That's why we are going to create some kind of flexibility in terms of describing the matters that might occur when we assess the person.

Mr. Paul Miller: It's kind of a grey area, is what I'm saying. What you've just said doesn't really spell it out. I don't see that in the writing.

In reference to an explanation from us as to why we will not support this, what we have discovered is that though an application entity can be designated by the minister as a service agency, another corporation or another entity as prescribed, a funding entity can be another corporation or another entity as prescribed, but should not designate a service agency as a funding entity-

Mr. Khalil Ramal: Correct.

Mr. Paul Miller: —which means that based on the government motion, funding cannot flow from a service agency. We do not support the government amendment setting up a funding entity because the bill, as amended by the government, will exclude community-based agencies from functioning as a funding entity, and does not stipulate that funding entities be non-profit. The NDP also does not support the purpose of funding entities, which will prioritize funding rather than provide funding based on the needs of individuals and their families. Service agencies are cut out from a funding distribution process, on top of which service agencies may be, by policy directive included in this bill, divided into different classes, seriously threatening the ability of community-based agencies to provide a consistent level of service and support across this whole province.

So we ask: Are the service and supports here provided on a not-for-profit basis?

Mr. Khalil Ramal: A quick answer, Mr. Chair: We separate the two entities—an application entity and a funding entity—to eliminate the conflict of interest, because an assessor cannot be at the same time a funder. We really focused on input and support from community organizations that have been in the field for many different years to give us advice and support and help us to carry on with our bill. As I mentioned—and I will repeat what I mentioned—the intent of the bill is to create some kind of choice for families and not to eliminate their choices. That's my answer, sir.

Mr. Paul Miller: With all due respect to Mr. Ramal, I've constantly asked him, "Is it for profit or non-profit?" and I don't get a direct answer. All he has to say is no or ves, and that's simple.

Mr. Khalil Ramal: The goal of the bill is to create a choice for families, so whatever the families choose to do, we're here to support, honour and respect them.

Mr. Paul Miller: I still haven't had my answer. Okay. The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. We'll now proceed to consideration of government motion-

Mrs. Christine Elliott: If we may have some comments, please.

The Chair (Mr. Shafiq Qaadri): Mrs. Elliott, please. Mrs. Christine Elliott: We also cannot support this section, first of all, because we fundamentally disagree with the establishment of the application entities and the funding entities. It's really confusing to us as to how they're to be established. First of all, they're very loosely defined; and secondly, when you look at subsection (3), where different classes of those entities can be created, it's hard to imagine how you can achieve any kind of consistency across the province in the delivery of services. So we are very concerned about that, and for that reason we'll have to vote against it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mrs. Elliott. We'll now proceed to consideration of government motion 19. Those in favour of government motion 19? Those opposed? Government motion 19 is carried.

Shall section 7, as amended, carry? Carried.

NDP motion 20.

Mr. Paul Miller: Thank you, Mr. Chair. Here we go again, another opportunity for the government to support

I move that section 8 of the bill be struck out and the following substituted:

"Application centres

"8(1) Service agencies in a geographic area shall establish a not for profit central intake service for the area that shall be known as an application centre.

"Access to services

"(2) Every application centre shall provide a single point of access to services funded under this act for persons with developmental disabilities residing in the geographic area.

"Powers and duties

- "(3) Every application centre shall perform such duties and exercise such powers as may be specified in this act or the regulations, including,
 - "(a) accepting applications for services and funding;
- "(b) developing person-centred support plans for the purposes of an initial service profile under section 18; and
- "(c) facilitating referrals to not for profit service agency supports.

"Coordination

"(4) Service agencies in a geographic area shall develop and implement a coordinated strategy to provide access to services for persons with disabilities residing in the area and for their families and caregivers.

"Funding

"(5) The minister may enter into funding agreements with application centres to provide funding with respect to the operational cost incurred by the application centres in exercising their powers or carrying out their duties under this act.

"Ouality assurance

"(6) An application centre shall comply with such quality assurance measures as may be prescribed.

"Reporting requirements

"(7) An application centre shall,

"(a) make a report to the minister whenever the minister requests it, in the form and containing the information specified by the minister; and

"(b) comply with such reporting requirements as may be prescribed.

Our explanation for this is that agencies in a geographic area should work together on a coordinated strategy to meet the goals of this bill. In some areas, such as Toronto, they are already collaborating to coordinate intake assessment and referrals. We also say that the minister may enter into funding agreements with application centres to provide funding for the operational costs incurred by the centres in exercising their powers and duties under this act.

Mr. Khalil Ramal: We're not supporting this motion for many different reasons. I outlined our government position many different times, why we choose to have two different entities, one to be an application entity and one to do funding. We eliminated the application centre because we responded to the people who came before us, whether community living or organizations or stakeholders, in many different locations in the province of Ontario. They told us about the need for transparency.

What we did was create those entities, one for applications—it could be community living, it could be other organizations—and also we're going to create standards. The eligibility is going to be set out by the regulations and also by an entity to do the funding. We believe strongly that if we combine them together, the assessors or the community which does the assessment would be the same organization that is the funder, so it would be a conflict of interest. Basically, you're telling me that the criminal would be the judge at the same time. We're going to have some kind of a different approach in order

to create transparency and make sure all the people are equal across the province of Ontario. It will be two different entities: one for the application centre and the application process and one to do with the funding.

Ms. Sylvia Jones: We have also brought forward a proposal to amend section 8. What we've tried to do is reflect more directly what we heard on those four days of presentations from families, individual members and people working in the sector. Quite frankly, I didn't hear a lot of requests for change in the sector over to complete not-for-profit, so our amendment, the next one, will

hopefully get a little more hearing.

Mr. Paul Miller: I believe at this particular stage that CASs both assess and fund. I beg to differ with the synopsis that two entities will provide a better system. You're saying that in the present system, the person does the initial study and then also assesses the finances, and you're feeling that there's a conflict of interest. It's my humble opinion that those individuals are professionals and they're trying to do what's best for the clients and the people who come before them. By creating two different problems, I think you'll get exactly what you stated: You're going to have a conflict. You may have one person assessing them for particular needs, and then they go to the financial person and they say, "No, we're not going to fund that person in that particular area." What you're creating is more confusion, more bureaucracy and more problems.

I think that the government should have a little faith in any professional in this province. When you go to these individuals, they've got the clients' best interest at heart and they're going to try to do the best they can and receive the funding they can under the present system.

You may even have two agencies battling each other for supremacy with the funding and the assessment group. In every organization I've ever seen, there are fiefdoms.

Interjection.

Mr. Paul Miller: Yes, but there are fiefdoms. That's not what I'm saying. I'm saying, if you create more bureaucracy, more different systems, you're going to have a slowdown in the system, you're going to have bigger waiting lists, you're going to have nothing but problems.

I cannot support this.

1040

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments? Seeing none, we'll consider NDP motion 20. Those in favour? Those opposed? NDP motion 20 defeated.

PC motion 20A.

Mrs. Christine Elliott: I move that section 8 of the bill be struck out and the following substituted:

"Application centres

"8(1) For the purposes of this act, every regional office of the Ministry of Community and Social Services is hereby designated as an application centre for the geographic area over which the regional office has jurisdiction.

"Access to services

"(2) Every application centre shall provide a point of access to services funded under this act for persons with developmental disabilities residing in the application centre's geographic area.

"Powers and duties

"(3) Every application centre shall perform such duties and exercise such powers as may be specified in this act or the regulations.

"Reporting requirements

"(4) An application centre shall,

"(a) make a report to the minister whenever the minister requests it, in the form and containing the information specified by the minister; and

"(b) comply with such other reporting requirements as may be prescribed.

"Publication of waiting lists

"(5) An application centre shall, on an annual basis, report the prescribed information about the waiting lists referred to in subsection 19(3) to the minister, and the minister shall, within 60 days after receiving the information, publish it in the manner the minister considers appropriate."

This amendment along with several others, we hope, reflects the many comments that were made to us during the course of the hearings about wanting to replace the actual application centres with more of an application process. That's what this amendment and the others that follow are hoping to do, to reduce again the bureaucracy of having a separate application centre that would take away funds from direct service and simplify and streamline the process, so that you would have one centralized application form to be submitted to the ministry to screen for eligibility, which would then go to independent planners which would be funded through the ministry, so there would be control. I know there are some concerns about them being brokerages and so on, but that's what the process would be. Then it would go back to the funders to make a decision once the independent planners have had an opportunity to speak with the person, their caregivers and their family members to see what they want.

We heard from many, many families that they may want independent direct funding or they might want to continue with a service agency, but what they want all together is to know about what else is out there, because when you're caring for a family member, you have very little time and it's very daunting to go and look to find out what other services and possibilities are out there for the person. It takes time to discern, first of all their wishes, and then how to put those wishes into action. This is the start of our amendments that are intended to fulfill the wishes of the person.

Mr. Khalil Ramal: We spoke about this issue many different times. I guess our position was clear and obvious about why we are creating two entities, one to collect all the applications, and also, trying to make people eligible, and also entities to do the funding. We want to create some kind of transparency and make the

process a lot better. We have no goal to create more bureaucracy, as I mentioned many different times, nor to grow the government. We believe strongly in the people who came before us many different times to tell us about their experience. Ms. Elliott, you heard them, and all of us heard them. They have good experiences, whether in Toronto or many different jurisdictions. They've been successfully able to provide some kind of assessment mechanism to the people with disabilities. The government in the past was basing their judgment on those assessments.

Further, to make this process more transparent and more equitable across the province, we came up with the entities because the minister many different times mentioned there are some difficulties and barriers facing people with disabilities to enter the services. Therefore, that's what we came up with, those points, in order to make sure all the people with disabilities have the same rights and have service.

Mrs. Christine Elliott: If I may just respond? I certainly agree with many of the things you're saying. I guess we're just looking at a different process to be followed here. When we drafted this section, we were certainly cognizant of the wishes of the families and the individuals to put more money into direct service, because certainly, underlying all of this discussion, is the need for a lot more money to be pumped into this sector. We heard that from many, many people. There needs to be more in terms of paying the workers who work with people; it needs to get more funding to the people themselves; the group homes need more funding. So all the money that can be put into direct service should be put in. That's why our concept was to have the centralized process to go into the ministry, and the ministry would just screen for assessment.

We were also cognizant of the need for families to get more information. We heard from families in the north and from rural areas who have significant concerns. Planners could be mobile services; they could go out to meet with people. They could be accessible to everyone. You wouldn't have to travel hundreds of miles to a regional centre—streamlining, simplifying and separation of decision-making and funding.

We see that part of it as being fundamental as well, to have the separation of those duties. It would ultimately be under the ministry's control, but it would certainly have the facilitation of the planner who would work with the existing agencies. We did hear from many great service provider organizations who have gotten together. We see them as being integral to the success of this as well. They can help implement the plan that the planners would develop.

The Chair (Mr. Shafiq Qaadri): Thank you, Mrs. Elliott. If there are no further questions or comments, we'll proceed to consideration of PC motion 20A. Those in favour? Those opposed? I declare PC motion 20A defeated.

We now move to government motion 21.

Mr. Khalil Ramal: I move that subsections 8(1) to (7) of the bill be struck out and the following substituted:

"Application and funding entities

"(1) The minister may designate, as an application entity for the purposes of this act, a service agency, another corporation or another entity that may be prescribed.

"Powers and duties

"(2) Every application entity shall perform the duties and may exercise the powers that this act or the regulations specify for application entities.

"Funding entity

"(3) The minister may designate, as a funding entity for the purposes of this act, a corporation or another entity that may be prescribed but shall not designate a service agency as a funding entity.

"Powers and duties

"(4) Every funding entity shall perform the duties and may exercise the powers that this act or the regulations specify for funding entities.

"Access to services and supports

"(5) Every application entity shall provide a single point of access to services and supports funded under this act for persons with developmental disabilities residing in the geographic area described in the entity's designation.

"Multiple entities in area

"(6) If the minister designates more than one application entity for the same geographic area, the application entities designated for the area shall work together to comply with subsection (5).

"Funding entities

"(7) Every funding entity shall perform its duties and may exercise its powers with respect to persons with developmental disabilities residing in the geographic area described in the entity's designation.

"Multiple entities in area

"(7.1) If the minister designates more than one funding entity for the same geographic area, the funding entities designated for the area shall work together to comply with subsection (7)."

In this motion, we describe the duties and responsibilities of every entity, whether an application entity or a funding entity, in order to have some kind of clarification and set out the conditions, if there are many different entities in the same geographic area, in order to create some kind of work relationship and not some kind of duplication. That's why, according to this act and these sections, those entities should work together in order to provide service for the people with disabilities, and also to state clearly that the application entity cannot be the funding entity.

1050

The Chair (Mr. Shafiq Qaadri): Comments?

Ms. Sylvia Jones: I have a couple of questions. Under "application and funding entities", "The minister may designate, as an application entity for the purpose of this act, a service agency" or other corporation. So are you not setting up a conflict there, when you have a service agency providing and doing the applications at the same time—so providing the services as well as providing the applications?

Mr. Khalil Ramal: No, we separate the two entities. We said it in many different sections. The application entity cannot be the entity that funds those services; it has to be two different bodies and two different organizations. If you are performing in terms of assessing people or being an application entity, you cannot be in the funding entity.

Ms. Sylvia Jones: Okay. Also, I wonder if you could give me an example of where you would have multiple funding agencies or entities in the same geographic area. Because it seems to me you're setting yourself up for failure there.

Mr. Khalil Ramal: As we mentioned, due to the service rate over a large geographical area, it might require maybe two different entities working in the same geographical area. So it may require two different offices or different entities. Therefore, I guess it's required for those entities to work together in order to—we have no specification as to area yet.

Ms. Sylvia Jones: Would you not be better off to divide up the geographic area as opposed to saying that there's more than one application entity able to operate

within that existing space?

Mr. Khalil Ramal: Well, the technicality of the bill and the sections set up the possibility that it might have two in the same jurisdictions, so that's why we have the explanation for it. These kinds of explanations and technicalities should be in this section if we have two entities in the same area performing the same duties. That's why we have to create some kind of working relationship, in order not to create duplications.

Ms. Sylvia Jones: I think you're setting yourself up for conflict there.

Mr. Paul Miller: I too have concerns about the same geographic area with two designated entities to handle funding. I think also that that could create a real horror story in that area, depending on where the person lives and their ability to get to the designated areas that provide the services.

Also, we do not support this motion, largely because we do not agree with the section that "The minister may designate, as a funding entity for the purposes of this act, a corporation or another entity ... but shall not designate a service agency as a funding entity." Why is this government excluding a service agency from funding entity designation? Are these various entities going to be run on a not-for-profit basis?

Mr. Khalil Ramal: We mentioned why at many different times, and I'll tell you again: We don't want to create some kind of conflict of interest. That's why we separate them, for transparency, and we're not going to create conflict among agencies. Agencies can make those eligible not eligible for competing for the services and for the money, for the funding. So therefore we came up with the separations, in order to create some kind of transparency and eliminate the conflict of interest.

Mr. Paul Miller: I guess I beg to differ, because in one area you've now created two entities, one for assessing, one providing for financial assistance, and now you've added possibly another financial assistance in that area. If you're adding another financial assistance office to that area, most likely you're overindulged with people, so I'm assuming that you would also have to create another assessment agency. So now here you go again: Instead of one-stop shopping, we could end up with four to six different offices, three from each designated job, going into the same area, depending on the size, the population, the geographic nature of the area—and demographics play a big part.

What exactly will a funding entity be? What will it be like? I don't have a lot of explanation on this. Maybe you

could further my-

Mr. Khalil Ramal: It will be described and set out by the regulations. I myself don't have explanations for it at the present time. But I want to tell you something very important. People with disabilities don't become disabled all of a sudden; they're born that way. As a Ministry of Community and Social Services, we service the people who are born with mental and physical disabilities. Therefore, I think the assessment would be not as abstract and big as we talk about in these sections, because it would be just a transfer from childhood to adulthood. So it would transferable things, and hopefully that assessment will transfer automatically with the person with a disability.

Mr. Paul Miller: So basically, what I'm hearing here is that bigger can be better; more hands in the pot can make it more efficient.

Mr. Khalil Ramal: I didn't say that.

Mr. Paul Miller: Well, that's what I'm hearing. Frankly, I cannot support this particular amendment in its present form. It falls very short of some of the expectations of the people out there. I think you've really mishandled this one.

The Chair (Mr. Shafiq Qaadri): Any further questions and comments? Seeing none, we'll consider government motion 21. Those in favour? Those opposed? Government motion 21 carries.

Government motion 22.

Mr. Khalil Ramal: I move that subsections 8(9) to (12) of the bill be struck out and the following substituted:

"Funding

"(9) The minister may enter into funding agreements with application entities and funding entities to provide funding with respect to the costs that the application entities or funding entities, as the case may be, incur in increasing their powers or carrying out their duties under this act.

"Revocation of designation

"(10) The minister may revoke a designation made under this section."

The Chair (Mr. Shafiq Qaadri): Mr. Ramal, could I just ask you to perhaps reread the sentence, "incur in exercising their powers"? I believe you said "increasing."

Mr. Khalil Ramal: —"exercising their powers or carrying out their duties under this act.

"Revocation of designation

"(10) The minister may revoke a designation made under this section.

"Quality assurance

"(11) Every application entity and funding entity shall comply with such quality assurance measures as may be prescribed.

"Reporting requirements

"(12) Every application entity and funding entity shall,

"(a) make a report to the minister whenever the minister requests it, in the form and containing the information specified by the minister; and

"(b) comply with such other reporting requirements as

may be prescribed."

All of this motion is just to clarify the position of the minister and the role of either entity. Also, in order for those entities to be responsible and transparent, they should report on a regular basis to the minister, especially when the minister asks for a specification in terms of certain issues. If they're not able to do so, the minister has a right to revoke their funding in order to create some kind of transparency and responsibility for the money they receive from the government.

Mrs. Christine Elliott: This section would seem to complicate things unnecessarily. A more simple way to do it would be to have the ministry simply be the funding entity, as they have been. When you delegate that, then you have to start looking at the quality assurance measures and you have to have a whole separate department set up in order to do that. Why don't you just have the ministry be the funding entity in the first place? It would be far simpler to do and would probably result in faster service at a lesser cost.

Mr. Khalil Ramal: As I mentioned from the beginning, to make it flexible and local, the minister and the government designed those entities to give flexibility to the people and their families to seek service instead of creating one centre in Toronto and all the people from across the province coming to Toronto. We want to be more flexible and accessible to the people who apply for those services. That's what the whole idea about flexibility and accessibility is; that's why there was the creation of the two entities, one to foot applications and the second one for funding—to make it local.

Mrs. Christine Elliott: If I may respond, what we heard from presenters, however, was that they were interested more in an application process than the concept of this centre. That being the case, if you had one central agency with one central application form, you could ensure consistency by making sure that the same people are looking at the same applications, applying the same criteria across the province. We certainly heard about the need for fairness across the province, particularly in some of the northern and more rural areas. So it would seem that if you have that funding mechanism as well as the basic application mechanism there to screen for eligibility, everything else in between can be done locally, which is the service planning and provision, which is what families were telling us they were really interested in

1100

Mr. Khalil Ramal: That's why we created the entities. We believe strongly that the entities will serve the local communities and can depend on local expertise and people who have the knowledge of people with disabilities, in every locale and every jurisdiction. We heard both, actually. Some people said it should be with the government, and other people said it should be an independent third party. We heard all these recommendations in the submissions by the people of Ontario. But we chose as a government to make it more transparent and more accessible to people with disabilities and their families, and to be local—and to create those entities to, first, process the information and applications; and secondly, to provide funding.

Mr. Paul Miller: Once again, this ties nicely into the last government amendment. We do not support this motion largely because, once again, we do not agree with the section in this government motion that says, "The minister may designate, as a funding entity for the purposes of this act, a corporation or another entity ... but shall not designate a service agency as a funding entity." This is unacceptable to many organizations out there in our province—unionized—doing perfectly good work for their communities, and we feel an exclusion here. We don't feel part of this situation. I'm telling you that this is going to create a lot of animosity and I think it's going to be more of a disservice than a service to the province as we progress with this situation. Once again, we will not support that amendment.

The Chair (Mr. Shafiq Qaadri): We'll now move to consider government motion 22. Those in favour? Those against? I declare government motion 22 to have carried.

Shall section 8, as amended, carry? Carried. We'll now proceed to consider NDP motion 23.

Mr. Paul Miller: I move that the bill be amended by adding the following section:

"Advocacy office

"8.1 The minister shall establish an independent advocacy office to,

"(a) provide advocacy to persons with developmental disabilities in respect of services and funding under this act; and

"(b) provide education to persons with developmental disabilities about rights under this act."

The reason for this amendment is that it seeks to redress the power imbalance that often exists between people with developmental disabilities in relation to organizations, the ministry or staff. People with developmental disabilities often feel powerless to express their dissatisfaction in any of these relationships. An independent advocate would be tasked to ensure access to mechanisms that seek to equalize the power imbalance and address their concerns. The role of an independent advocate in similar situations of power imbalance and abuse has been recognized in Ontario with respect to children in the office of the Provincial Advocate for Children and Youth and the Psychiatric Patient Advocate Office.

We believe that this is an excellent amendment, and we believe that it will protect the rights of these people if they meet with—I'll give you an example. I know we're not discussing the LHINs, but the LHIN is a government agency that has been created, and there is absolutely no grievance procedure or ability to adjudicate their problems. There are 267 agencies in my area that will fall under the LHIN supervision, and if you have a problem with that agency, you have to deal with that board or that agency, and that's where it ends. The LHIN program falls short of having an advocacy person to deal with complaints that come up through the system for different functions and different bodies that service a geographic area. This amendment that we're bringing forward would deal with a mechanism for these people. If they're not satisfied with the agency that they're using, they'll be able to go to the LHIN and have a separate officer in the LHIN that would be able to deal with their complaint if they feel they're not getting anything from the board that deals with that particular agency. I can't see how anyone would vote against helping people have a resolution base, an ability to bring their complaints forward to be dealt with in a swift manner by an overseeing body such as a LHIN. I don't see any of that in here. This amendment should be added and more should be added to protect people's rights, so I'm hoping that this committee will support this amendment.

The Chair (Mr. Shafiq Qaadri): Mr. Ramal, then Ms. Jones.

Mr. Khalil Ramal: The government will respond to this one in a different motion in the future to deal with Mr. Miller's concern, the NDP's concern. We'll be talking about it when we reach motion 23 by the government.

Ms. Sylvia Jones: I'm just wondering why we would need a separate advocacy office when we currently have the public guardian as well as, of course, our very capable Ombudsman. I'm not sure why we are, once again, trying to treat individuals with developmental disabilities differently from the rest of society who have access to the Ombudsman.

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments?

Mr. Paul Miller: Am I to answer that?

The Chair (Mr. Shafiq Qaadri): It's your turn.

Mr. Paul Miller: If I'm not mistaken, your idea is to create a third party who's involved in all kinds of other things, while I'm saying one person in a LHIN office should be able to deal with people's problems. The Ombudsman, as you can well respect, is a very busy man, and I don't think his office can deal with every individual case in the province of Ontario. But if you had someone in the LHIN situation geographically located with an ability to deal with it more swiftly, I think it would be beneficial. I can't see why anyone would be against dealing with people's complaints and problems on a local basis.

The Chair (Mr. Shafiq Qaadri): We'll now consider NDP motion 23. Those in favour? Those opposed? I declare NDP motion 23 to have been defeated.

Mr. Paul Miller: Excuse me, Mr. Chair, could we possibly have another 10-minute break? I would like to use the facilities.

The Chair (Mr. Shafiq Qaadri): Is it the will of the committee?

Interjection.

Mr. Paul Miller: I know you're on a roll. I'm sorry, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): Fine. We'll have a five-minute break, please.

The committee recessed from 1105 to 1113.

The Chair (Mr. Shafiq Qaadri): I'd invite the committee to please resume so that we might begin our deliberations. We are on PC motion 23A, if I'm not mistaken, and I would invite that to be presented by Ms.

Ms. Sylvia Jones: I move that paragraph 2 of section 9 of the bill be struck out and the following substituted:

"2. The minister may provide funds to an application centre for purposes of direct funding agreements entered into under section 11."

It's self-explanatory, I think.

The Chair (Mr. Shafiq Qaadri): Are there any comments or questions on PC motion 23A? Seeing none, we'll consider it. Those in favour of PC motion 23A? Those opposed? I declare it defeated.

Government motion 24.

Mr. Yasir Naqvi: I move that the heading to part IV and section 9 of the bill be struck out and the following substituted:

"Part IV

"Funding of Services and Supports

"Funding of services and supports

"9. The minister may fund services and supports for persons with developmental disabilities using the following methods of funding:

"1. The minister may enter into funding agreements with service agencies under section 10.

"2. In a funding agreement with an application entity described in subsection 8(9), the minister may agree to provide funds to the entity for the purposes of direct funding agreements that the entity enters into under section 11 with persons with developmental disabilities or other persons on their behalf."

That's essentially a housekeeping amendment.

Interiection.

The Chair (Mr. Shafiq Qaadri): This is just a procedural moment; just a moment.

Are there any further questions or comment on government motion 24?

Mr. Paul Miller: After you've finished that, maybe you can deal with that other problem.

Number 24: In our opinion, this motion needs clarification. As it is written, it is difficult to assess its actual intent. How can the application entity enter into a direct funding agreement when their role as an intake centre, prescribed under the government's own amendment motion, gives them funding responsibility that's based on the government's motions which will be for the role of

funding entities? So which entity is being referred to in 9.2, second and third lines? More clarification is required. Two parallel systems are being created, limiting service agencies and subsequently options for families that are high quality and safe and provide them with peace of mind. So maybe somebody can give me some clarification on that particular part.

Mr. Khalil Ramal: I think we've clarified this position many different times. This one is to change the header to be consistent with the stature of the bill which we mentioned many different times, to forward service and add "supports" whenever we mentioned "services." That's a housekeeping motion, just to change the heading of section 4 to add to it "supports."

Mr. Paul Miller: Yes, but how can they enter into a direct funding agreement when their role as intake centre. as prescribed under the government's own amendment motion, gives them funding responsibilities based on the government motions which will be the role of funding entities? It's confusing. Maybe you can clarify it a little more for me. I'm not quite sure on that wording. It's a little—I have a problem with that particular part.

Mr. Khalil Ramal: We can-

Mr. Paul Miller: I'll read it again for you.

Mr. Khalil Ramal: No, we can ask ministry staff—

Mr. Paul Miller: Yes, could you? I'd appreciate that, because I really don't-

Mr. Khalil Ramal: The ministry staff can explain that section. He's talking about section 2.

Ms. Colette Kent: You were asking a question about the direct funding-

The Chair (Mr. Shafiq Qaadri): We'd invite you to introduce yourself and your position and then begin your

Ms. Colette Kent: I'm Colette Kent. I'm director of the policy branch. You asked about direct funding. One of the roles of the application centres would be to administer direct funding on behalf of individuals. So once a person has been assessed for funds and has been prioritized and in receipt of funds, then the funding doesn't flow through the funding entity. The funding flows through the application centre.

Mr. Paul Miller: Okay, thanks for that explanation. It was a little confusing.

Mrs. Christine Elliott: I also find this section very confusing—Ms. Kent, if you could stay. What, then, is the role of the funding entity in this whole process if the minister can fund directly? Doesn't that short-circuit what the funding entity's going to be doing?

Ms. Colette Kent: The funding entity is the decisionmaker for the funds. It isn't administering the direct—so in cases where an individual says, "I don't want to use an agency service; I want to manage my own money," then the money would be flowing out from the application centre based on the amount that the funding entity had identified. So the funding entity is more of a backroom function than an actual place where anybody goes.

Mrs. Christine Elliott: I appreciate that, but if you call it a funding entity, I think the expectation would be

that they would be responding to the funding as well, that that would be a function that you might want to have together in terms of looking at a plan and deciding to fund it; the funds would then flow. If you have a funding entity that is separate and apart from the regional office or the minister's office, how do you ensure that consistency, then, across the province if you've got them sort of doing their thing locally?

Ms. Colette Kent: The funding entity would take the results of the assessment and, using a common allocation formula, would determine an individualized amount of money for the person. That individualized amount of money could be used to go to an agency and receive service, it could be used to buy service, or it could be used for a combination of both. All the funding entity is doing is determining how much that individualized budget is. It's not getting a big pot of money from the ministry and then distributing that money.

1120

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments? Seeing none, we'll proceed to consideration of government motion 24. Those in favour? Those opposed? I declare government motion 24 to have carried.

Shall section 9, as amended, carry? Carried.

We'll now proceed to consideration of NDP motion 25.

Mr. Paul Miller: I move that the bill be amended by adding the following section:

"Not for profit

"9.1(1) Subject to subsection (2), funding under this act shall only be provided to a service agency or other service provider that operates on a not-for-profit basis.

"Exception, existing for profit

"(2) Funding may be provided to a service agency or other service provider that, before the day this section comes into force, operates on a for profit basis, but the service agency or service provider shall not expand beyond its geographic area as it existed on that day."

The explanation for this is that, in a system that has been chronically underfunded, it is necessary that every cent possible go to providing direct service and support and not to private profit. We are concerned that with the emphasis on the expansion of direct funding mechanisms in the act, it will lead to a proliferation of private brokers and third parties, which are not held to the same accountability measures as community-based agencies.

I'm hoping that the committee will support this amendment.

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments? Seeing none, we'll proceed to consider NDP motion 25. Those in favour? Those opposed? I declare NDP motion 25 to have been defeated.

We will now proceed to government motion 26.

Mr. Joe Dickson: I move that subsection 10(1) of the bill be amended by striking out "services" and substituting "services and supports."

In speaking to it, it simply mirrors the use of what we have been doing today in referencing services and supports.

The Chair (Mr. Shafiq Qaadri): Are there any ques-

tions or comments?

Mr. Paul Miller: I'd just like to tell Mr. Dickson that we will be supporting that once again, in the spirit of cooperation.

The Chair (Mr. Shafiq Qaadri): We'll now proceed to consideration of government motion 26. Those in favour?

Mr. Joe Dickson: I'd like to thank the honourable member from Hamilton for their continued support of the government's work.

The Chair (Mr. Shafiq Qaadri): We thank you, Mr. Dickson.

Those in favour of government motion 26? Those opposed? I declare government motion 26 to have been carried.

NDP motion 27.

Mr. Paul Miller: Could I just have one minute, Mr. Chair? We just have a transformation here.

The Chair (Mr. Shafiq Qaadri): Yes, you may. Interjection.

Mr. Paul Miller: Mr. Chair, as we have the problem I discussed with you and the clerk, would it be okay to move on now?

The Chair (Mr. Shafiq Qaadri): Mr. Miller, I'm going to actually ask the clerk or legislative counsel to officially give you the ruling.

Interjection.

The Chair (Mr. Shafiq Qaadri): Just for the advisement of the members of the committee—I would of course emphasize that this is a ruling, apparently, by the Speaker and of Parliament, and not the will, in particular, of this chairman here—apparently, according to standing order 112(e), the sub slip that was originally tendered by Mr. Bisson for Mr. Miller applies only to Mr. Miller and cannot be transferred, modified, upgraded or downgraded, as the case may be, to Mr. Prue. Therefore, Mr. Prue, though welcome to be at this committee and will therefore be allowed to speak, to debate and offer questions or comments, will not be allowed to move any NDP motions.

With respect, I would like to once again emphasize that this is not an official rule that is coming from your current chairman, but elsewhere.

Mr. Paul Miller: Chair, may I say a couple of things here?

The Chair (Mr. Shafiq Qaadri): Please.

Mr. Paul Miller: Due to Mr. Prue's commitments, I drove in from Hamilton to fill in until noon for him. With the indulgence of the committee, just because we don't have 9 to 12 on it—that's all that was missing on the sub slip—now they're pulling a technicality on me. He's doing his job and I don't have a problem with that, but Mr. Prue, who's here now, sits on this committee. I was simply filling in for him, as you're well aware. It was a tough morning for me, getting through this, but I don't

see why—this is ridiculous. Just because we didn't write 9 to 12 on it—

Mr. Yasir Naqvi: On a point of order, Chair: To you and to the clerk, can we not, with the consent of the committee, make a provision that Mr. Miller be excused and Mr. Prue substitute for Mr. Miller? There's no concern from the government side on that issue.

Interjection.

The Chair (Mr. Shafiq Qaadri): We've been told no, but I will take a recess to confer with higher powers to officially decide that. We'll have a 10-minute recess, if that's convenient.

The committee recessed from 1126 to 1137.

The Chair (Mr. Shafiq Qaadri): Colleagues, I'd invite you to please resume. Before we begin reconsideration of NDP motion 27, we will ask for your cooperation in helping to get over this procedural impasse. I ask: Is it the unanimous will of the committee that Mr. Miller's substitution slip, offered originally in the name of Mr. Bisson, shall apply to Mr. Miller from 9 a.m. to 12 noon, as opposed to 9 a.m. for the rest of the day, and therefore allowing Mr. Prue to take over from 12 noon onward? Is it the unanimous will of the committee? I see, in fact, that it is. We now move forward.

We now move to consideration of NDP motion 27. Mr. Miller, you are invited to not only present but are absolutely required to be here until 12 noon. Please proceed.

Mr. Paul Miller: Okay. I won't leave. Thank you, Mr. Chairman. Thanks for the committee's indulgence.

I move that section 10 of the bill be amended by adding the following section:

"Funding for core mandated services

"(1.1) An agreement under subsection (1) shall provide multi-year funding for the core mandated services prescribed by the regulations."

The explanation for this is, for core mandated services, provisions are necessary so that they are available whenever required by the eligible individuals.

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments?

Mr. Khalil Ramal: We don't support this motion for the reason that we believe in portability, and multi-year funding goes only to stakeholders and organizations and doesn't go to individualized funding; so we tie it with the needs of the person with a disability instead of going to fixed funding.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Prue.

Mr. Michael Prue: Thank you very much, and thank you as well to the entire committee for the unanimous consent and to the Chair for being patient. This motion was put forward in order to assist the many agencies that are out there and that have been providing excellent work in this field for a number of years. This is an opportunity for core funding, so that they have multi-year core funding and are able to make the planning necessary to continue servicing this. As a result of this bill, what is going to happen if you don't do this is that these agencies

are going to have to—as people leave the agency, and those who choose to have individualized funding, they're going to leave the agency without the necessary funds for that period until they find someone else to accommodate that spot. It's going to have dire financial consequences for them without the provision of this amendment.

I'm asking you to think not only of those who will seek individualized funding, but for the vast majority who are likely to remain with these core agencies, and ask you to change your mind and support this particular aspect in order that the services will continue to be provided by our major service providers, who are these agencies who have been in the field for decades.

The Chair (Mr. Shafiq Qaadri): Any comments, queries, questions? We'll proceed to the consideration of NDP motion 27. Those in favour? Those opposed? I declare NDP motion 27 to have been defeated.

Shall section 10, as amended, carry? Carried.

We'll now proceed to PC motion 27A.

Ms. Sylvia Jones: I move that subsection 11(1) of the bill be amended by striking out "An application centre" at the beginning and substituting "An application centre, acting on behalf of the minister,"

Again, this is to ensure that the application centres don't become separated from the purviews and responsibilities and also to allow the Ombudsman to continue to oversee concerns that people would have as they walk through the process.

The Chair (Mr. Shafiq Qaadri): Questions? Comments?

Mr. Khalil Ramal: We're not supporting this motion for the reasons we spoke about at many different times. The goal is to create two entities, one for the application process and one for funding, just to create some kind of transparency and eliminate the conflict of interest.

Mr. Michael Prue: I have two questions of the mover. The first one is, aren't all application centres, aren't all government agencies, isn't everyone who receives government funding, acting through the ministry and thus the minister?

Ms. Sylvia Jones: It is my understanding from some conversations that I've had with the Ombudsman that the application centres, as set out in the original Bill 77, could be outside his area of investigation, and that's what I'm trying to ensure does not happen.

Mr. Michael Prue: Would this amendment, if passed, allow the Ombudsman access? Is that what the intent is here? Because it was my understanding that this would not allow the Ombudsman access.

Ms. Sylvia Jones: That's part of it, to ensure that he would have access, and also not to take the minister's responsibility to the sector away, not to have it separated, similar to what is happening in the LHINs, where the minister of the day seems to leave the tough decisions to the LHIN and not take responsibility for it. By saying "acting on behalf of the minister," I'm trying to ensure that the minister continues to take responsibility for the sector and the funding of.

The Chair (Mr. Shafiq Qaadri): Are there any further questions, comments? Seeing none, we'll con-

sider. Those in favour of PC motion 27A? Those against? I declare PC motion 27A to have been defeated.

Government motion 28.

Ms. Laurel C. Broten: I move that section 11 of the bill be amended by striking out "application centre" wherever that expression appears and substituting in each case "application entity."

This is a housekeeping motion that reflects the motions previously put forward, and the intent of the amended provision is so that we have consistency in

language across the document.

The Chair (Mr. Shafiq Qaadri): Any comments? Seeing none, those in favour of government motion 28? Those opposed? Government motion 28 carried.

PC motion 28A.

Mrs. Christine Elliott: I move that subsection 11(2) of the bill be amended by striking out "An application centre" at the beginning and substituting "An application centre, acting on behalf of the minister," for the reasons stated by my colleague Ms. Jones with respect to the previous PC motion.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 28A? Those opposed? I declare it defeated.

NDP motion 29.

Mr. Paul Miller: I move that section 11 of the bill be amended by adding the following subsection:

"Same

"(2.1) A person acting on behalf of a person with a developmental disability referred to in subsection (2) must be a family member or direct caregiver."

In reference to this one in the explanation, this ensures that only a family member or direct caregiver can act on behalf of a person with a disability and that the brokers and the third parties without a direct family or caregiving relationship do not act for these individuals.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Prue.

Mr. Michael Prue: This is an important aspect of the bill. Caregivers of family members have traditionally, and I think rightly, taken the opportunity to do what is best for themselves and for their family members. If the government's intent is to give this away to a third party, a broker who potentially could do this for profit—because that's what we think most of the brokers will be—I think you're going to be taking away a right that has existed long before this Legislature, even long before this country: the right of people to look after their loved ones. particularly those who are in need. We want to make sure that the family tie is strengthened, not weakened and not interfered with by third party people who may have all of the best intent but often will be doing it for profit. We want to make sure that it stays as close as possible to the family itself.

The Chair (Mr. Shafiq Qaadri): Mr. Ramal.

Mr. Khalil Ramal: We're not supporting this motion because it will tie the hands of the family. The intent of the bill is to create a choice and flexibility in how they care for their loved ones, whether with immediate family or organizations, whomever. I think it's part of the

content and intent of the bill to create that flexibility and choice. If we voted yes, it would conflict with our intent and direction.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 29? Those opposed? I declare it defeated.

PC motion 29A.

Ms. Sylvia Jones: I move that clause 11(3)(a) of the bill be amended by striking out "the application centre" at the beginning and substituting "the minister."

It hearkens back to my comments earlier about my concerns that the application centres are not going to have the same scrutiny that the minister would have.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Khalil Ramal: We're not supporting this motion because of what we said before many different times. We're eliminating the application centre, replacing it with an application entity which will process all information. If we support this one here, it will conflict with our direction and the intent of the bill.

The Chair (Mr. Shafiq Qaadri): Consideration of PC motion 29A: Those in favour? Those opposed? I declare it defeated.

PC motion 29B.

Mrs. Christine Elliott: I move that clause 11(3)(b) of the bill be struck out and the following substituted:

"(b) the other party to the agreement shall agree to use the funds solely for the purposes of implementing the life plan that is developed for the person with a developmental disability under section 18."

The purpose of this amendment is to open up the concept of the life plan, rather than just a service provision. There are going to be many other services and supports that may need to be put in place for the person beyond just the services that may be available through service agencies. It's a broader definition.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Khalil Ramal: Again, we're not supporting this motion because the government recognizes the importance of providing planning support to individuals and their families. That's why the government is forwarding a motion to recognize the person-directed planning as services and supports in this bill, to recognize the importance of support planning.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Michael Prue: I think this is important, and I don't understand the government's reluctance. The official opposition is talking about the life plan. Key to any kind of development of a long-term strategy for an individual is to sit down at the beginning and have a life plan, and it's from that life plan, however it's designed, whatever happens, that the service comes in or the families take control or the educational institutions may be called in. The life plan sets the long-term goal, the roadway, the way to get there. I don't understand the government's reluctance here with something as important as this is to every individual at the start, or near the start, of the rest of their lives, at the start of the services that will be provided or must be provided to them to

make the most—it seems to me that having the life plan instituted in the legislation in such a way as has been suggested would be a forward step, and I simply don't understand their reluctance.

1150

The Chair (Mr. Shafiq Qaadri): Comments? Seeing none, we'll consider PC motion 29B. Those in favour? Those opposed? I declare PC motion 29B defeated.

Motion 29C from the PC side.

Ms. Sylvia Jones: I move that subsection 11(4) of the bill be struck out and the following substituted:

"Service co-ordinator

"(4) In a direct funding agreement, the parties to the agreement may agree that the funds provided under the agreement be paid to a third party who shall use the funds solely for the purpose of implementing the life plan that is developed for the person with a developmental disability under section 18."

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Paul Miller: We think that this is a good addition as an amendment, and we will be supporting this.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of PC motion 29C? Those against? I declare PC motion 29C defeated.

Government motion 30.

Mr. Khalil Ramal: I move that the following provisions of section 11 of the bill be amended by striking out "services" wherever that expression appears and substituting in each case "services and supports":

- 1. Subsection 11(1)
- 2. Subsection 11(3)
- 3. Subsection 11(4).

So just a housekeeping motion in order to be consistent across the bill.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Paul Miller: Once again, in the spirit of cooperation, we will be supporting something that's good for the people of Ontario. Thank God I'm leaving at noon because I'm zero for—whatever—and hoping that this afternoon things improve for Mr. Prue, in the infinite wisdom of this committee.

The Chair (Mr. Shafiq Qaadri): Thank you.

We'll now consider government motion 30. Those in favour? Those opposed? I declare government motion 30 carried.

NDP motion 31.

Mr. Paul Miller: I move that section 11 of the bill be amended by adding the following subsection:

"Not for profit

"(4.1) The third party referred to in subsection (4) must be a community based, not for profit agency and shall comply with such quality assurance measures as may be prescribed."

Our explanation for this particular amendment is that this removes the potential for a third party, as defined under the act, to profit from acting on behalf of an individual with a developmental disability, and provides safeguards to the individual from potential exploitation. I

don't know how anybody would not want to protect the individual.

Mr. Khalil Ramal: We are not supporting this motion for many different reasons that were said many different times in the past.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we'll consider NDP—

Interjection.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: I didn't hear the explanations in the past, but it seems to me quite logical here that if the government is intent upon defeating this, it is the government's intention to allow for-profit agencies to benefit, because clearly, what this says is that it must be a community-based service agency and the community-based service agency shall be not-for-profit. Am I to take it from the government's refusal on this particular motion that you intend for agencies that are for-profit to profit from these circumstances? Is that why you're reluctant?

Mr. Khalil Ramal: I guess, Mr. Prue, I'll repeat again: In the morning, we mentioned many different times the intent of the bill to create a choice, for families to choose whatever service they wish for their loved one. That's the aim and goal of the bill, from day one. That's why we're not supporting this motion.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll now consider NDP motion 31. Those in favour? Those opposed? I declare it defeated.

PC motion 31A.

Mrs. Christine Elliott: I move that subsection 11(6) of the bill be struck out and the following substituted:

"Receipts and reports

"(6) If an application centre enters into an agreement on behalf of the minister under this section, the other party to the agreement shall provide the application centre with such receipts and reports with respect to the use of the funds as may be required under the agreement."

This is simply to build in the accountability mechanism to make sure there's value provided for taxpayers' dollars.

Mr. Khalil Ramal: We're not supporting this one because it will limit the flexibility of the family and the way they determine to spend the money if they're eligible for direct funding. So it limits the family's flexibility; that's why we will not support it.

Ms. Sylvia Jones: Point of clarification: How does it limit the family's ability?

Mr. Khalil Ramal: The families, when they present to us, want a choice. We don't want to limit their choices by creating some kind of barriers in front of them, because we believe strongly that they know how to deal with their loved one. In many cases, they've serviced and supported their loved one for many years and they know how to keep looking after them. If they receive the funding or direct funding, I guess they have the right to spend it the way they think will benefit their loved one.

Ms. Sylvia Jones: But how does amendment 31A limit their choices?

Mr. Khalil Ramal: You're talking about an application centre, so by giving flexibility, it starts to go back to the minister every single time or not just be directed to them, so it kind of creates some kind of barriers. So we're eliminating some kind of flexibility, because we believe strongly that when the funding entity decides to give the direct funding, the parents should manage, and from then on the funding comes to be spent on their loved one.

Mr. Paul Miller: I'd just like to ask Mr. Ramal—no one's questioning the love of a family member and their dedication to providing services for that loved one. My concern is, if there are medical prescriptions, if there are things that are involved—moving the patient or techniques that are involved that family members don't have the proper training to do—is the government going to pay to provide the training for these people so that they will not put themselves or the government in a position of liability? Because all they're doing is receiving the funding, but when it comes to the care of the person, who's going to be liable if there's an accident or wrong prescriptions given? Is the government going to find themselves in court just because they've provided the money but not the resources to train properly for that particular person's problems? No one's questioning the love of the family. What we're questioning is, are they providing the proper care, are they educated enough in that area, and can they receive the education and the support to take care of those patients? What's going to happen?

Mr. Khalil Ramal: I believe when the person receives the funding they will enter into a contract, an agreement, in order to make sure all the accountability and responsibility are in place. So, definitely, the person who's going to do the service is not going to be just somebody from the street, because no families, I think, are going to put their loved one in harm knowing that that person is not capable or responsible.

Mr. Paul Miller: So it's my understanding that you're saying that when people go to receive funding, they're going to sign an agreement—

Mr. Khalil Ramal: With the family.

Mr. Paul Miller: —releasing the government from any responsibility for the care of that individual if that person should make a mistake—not intentionally, obviously, but unintentionally—with their family member. Where do they go—are they going to have to hire a lawyer?—if there's liability involved? Are you saying they're going to sign a release form, a waiver? I've never heard of this. Is this going to be part of the—

Mr. Khalil Ramal: Mistakes happen, whether with big organizations, small organizations or individuals. Life is subject to mistakes, and responsibility and accountability—I believe strongly the parents, when they choose a service, will look around and shop and see what's best for their loved one. So that's the idea and aim of this bill, to create choice for families. That's why we believe strongly that the family will take the responsibility—

Mr. Paul Miller: So, in your opinion, would people who have been doing these particular services for years, whether they be RNs or people who are in the medical field, who have been dealing with people with disabilities in the past in not-for-profit organizations, of which we have some wonderful ones, VON and other organizations in this province—there seems to be less tendency for accidents or mishaps. If you're putting the burden on the family to be responsible for a mishandling of a situation, are you saying that the government is washing its hands of it and trying to get the people to sign waivers basically saying, "You roll the dice; you're on your own"?

Mr. Khalil Ramal: We say, "You know what? I think the parents know better what's good for their loved ones, and they have the ability and the judgment to choose."

Mr. Paul Miller: So you're saying that the parent would know more than a doctor or an RN?

Mr. Khalil Ramal: I'm not saying that. If they choose to go to organizations, big or small, or individuals, it's up to them because they know better how they can care for their loved ones.

Mr. Paul Miller: Well, I hope the government knows what they're getting into.

The Chair (Mr. Shafiq Qaadri): If there are no further questions, we'll consider PC motion 31A. Those in favour? Those opposed? I declare PC motion 31A defeated.

Seeing that it is now 12 noon, we will adjourn for one hour exactly, to 1 p.m. resumption.

The committee recessed from 1200 to 1305.

The Chair (Mr. Shafiq Qaadri): I'd call you back to order so we might expeditiously begin our consideration of all these various amendments. I'd advise my colleagues and members of the committee that we have only 178 or so amendments left and would invite us to be efficient so we can complete consideration of these amendments before either the next federal and/or provincial elections.

I'd now invite the NDP to begin submission of motion 32.

Mr. Michael Prue: I move that section 11 of the bill be amended by adding the following subsection:

"Support of service agency

"(8.1) A person who receives funds under a direct funding agreement shall use the support of a community based service agency to purchase the services specified in the agreement, unless the person purchases the services from a family member or direct caregiver."

We are adding this subsection to ensure that public monies stay either within the not-for-profit sector or go directly to family members close to the individuals.

If I could, the rationale for this is that we believe that the direct funding agreement should go to service agencies that have existed in the past and, where they do not, directly to the family. We are reluctant to support any kind of motion where the monies are given out to people who may or may not be qualified.

I realize that this may have been discussed most of the morning—and I realize that my good friend the par-

liamentary assistant is most likely going to tell me what he told my colleague this morning—but we think that this is a very important provision of the act, so that when services are purchased, they are done so through the use of a community-based service agency to ensure the quality of service that we want for all people with developmental disabilities.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Khalil Ramal: We heard many different times—and you were with us—that people are looking for a choice and flexibility. That's why we voted against it, not because we have a choice of service, but we want to leave flexibility for the families, especially in a remote area, in which the resources are limited and the choice is limited. The flexibility will be very important for families to choose services for their loved one.

Mrs. Christine Elliott: Unfortunately, we're not able to support this amendment either because we do feel that it needs to be the choice of the individuals and their families, and they shouldn't be limited to just one sector.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll consider NDP motion 32. Those in favour? Those opposed? I declare NDP motion 32 lost.

PC motion 32A.

Ms. Sylvia Jones: I move that subsection 11(9) of the bill be amended by striking out "the application centre" and substituting "the application centre, acting on behalf of the minister,"

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Prue.

Mr. Michael Prue: Just a question: Is the rationale the same here as it was before all of the other amendments that were not successful?

Ms. Sylvia Jones: I can't help but try again.

Mr. Michael Prue: You're just trying again. Okay.

Mr. Khalil Ramal: Actually, we have the same answer that we answered in the morning. We eliminated the application centre. We substituted it with "entity," one for the application process and one for funding. My answer would be the same. I will not be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 32A? Those opposed, if any? I declare PC motion 32A defeated.

NDP motion 33.

Mr. Michael Prue: I move that section 11 of the bill be amended by adding the following subsections:

"Deemed member of bargaining unit

"(10) A support worker hired by a person who receives funds under a direct funding agreement is deemed to be a member of a bargaining unit in the geographic area in which the person resides.

"Wages

"(11) A person who uses the funds provided under a direct funding agreement to hire a support worker shall pay the support worker,

"(a) an hourly wage equivalent to the hourly wage earned by employees of service agencies in the geographic area who have comparable responsibilities, job skills and experience; and

"(b) additional remuneration in lieu of benefits.

"Quality assurance

"(12) A person or entity from whom services are purchased with the funds provided under a direct funding agreement shall comply with such quality assurance measures as may be prescribed."

And that's the whole thing.

1310

exists?

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Khalil Ramal: We have exactly the same position on this motion as we did on the past one, because we want to keep that flexibility in place in order to create a choice for families. Whatever agreement is entered into between the funding entity and the parents will have some kind of quality assurance in place and provisions to ensure the responsibility and accountability.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Michael Prue: First of all, many jurisdictions, including the province of Ontario and the city of Toronto, in which we are now sitting, have a fair wage policy. So the people who bid on government contracts, people who seek government work and companies that do so, have to show that they have a fair wage practice; that is, they pay a fair wage to their employees so that any bid that they make won't undercut the people who are already doing that kind of work. What this is intended to do is to ensure that people who come into this sector, who may have had no experience in this sector, who may have had no training in this sector, are not forced to take minimum wage or less-than-minimum-wage jobs. Is it the government's position that you do not wish to pay people, or you are not going to compel that people who come into this sector be paid at least the average wage that already

Mr. Khalil Ramal: The government position is to maintain the choice for the family and give them the flexibility for choice. Of course, it's just the family who will administrate the fund in the way set out by the regulations and they will be accountable, and they'll choose which service they seek and they can manage the funds they have in order to provide service for their loved ones. We have full confidence in the parents and their ability to choose what's best for their loved ones.

Mr. Michael Prue: The government's position here is quite sad. What the government is saying is that we have a whole legion of people out there who work for various service agencies, some of whom are unionized, some of whom are not, who earn anywhere from—we've heard a lot of figures—\$12 to \$20 an hour, which in most cases will be a living wage somewhere in Ontario. The government's proposal is that anyone who wishes to contract out service can pay whatever they can get it for. So if the government were to hand someone, as an example, \$100 a day for a service worker, and you were, as a family, able to find someone for \$8.75 an hour, which is the minimum wage, you could contract them for some 11 or 12 hours a day. If you had to pay them \$20 a day, which

may be the going rate in the Toronto area or one of the large metropolitan areas, then you could contract them for five hours a day. So people who are going out looking for employees are going to, of course, use this lacuna, this loophole, to hire people at minimum wage, perhaps even less than minimum wage, and they're not going to be able to ensure that they have the necessary qualifications.

What we are simply asking is that a fair wage be paid. If the average in an area, as defined by the government—similar, I guess, to a LHIN—is \$15 an hour, when the family decides to contract out, they should pay that amount of money. Otherwise, you are going to undercut the very social agencies who've been doing a good job; you're going to undercut the minimum wage that is being paid in this sector, as bad as it already is; and quite frankly, you're going to make the labour situation even worse.

I don't understand why this government does not want to pay an equivalent wage to people who are newly going to be contracted. I don't understand why they don't have to have in the beginning any kind of qualifications. I don't understand why they don't have to have training. I don't understand how they may or may not be required to have insurance in case they do something wrong, which the agencies have to have. And now we find out that they don't even have to be paid the same amount of money. It's whatever the family can find, so whatever qualifications they have. I think that goes very much against what this government has said in the past, that they believe in a fair wage policy.

Mrs. Christine Elliott: Certainly we would agree with Mr. Prue that it is important that all workers in the sector, whether they are working for service provider agencies or working independently, should be paid an equivalent wage. We heard that from families who felt bad about not being able to pay those wages for people to help them with the individualized services they wished to purchase. But they also talked to us about the lack of consistency because people simply couldn't work for that amount of money; they needed to move on to other, more remunerative-type jobs. There is certainly a need to address that issue. However, our view is that it should be addressed by putting more money into this sector, not necessarily requiring people to become members of the bargaining unit. So that's the issue we have with it. In our view it could be addressed by simply allowing for more money in the sector so that individuals and families could pay a fair wage for the services they are purchasing. For that reason, unfortunately, we're not going to be able to support this amendment.

Mr. Michael Prue: I just want to correct the member. There's nothing in this that says anything about a bargaining unit or requiring them to be unionized. It simply states the "hourly wage equivalent to the hourly wage earned by employees of service agencies," many of whom are not organized and are not union members, and "who have comparable responsibilities, job skills and experience," so you cannot bring in people who will work

for less. I can tell you that there are agencies even in your own riding that are not unionized, and someone will be coming and trying to find workers for less, and you will find that the people will be leaving the agencies that serve your members as well, unless there can be some way of ensuring that at least the average amount is paid to those new people who are being brought in. That's simply all that this is asking: Do not undercut the workers who are already there, do not undercut them so that they will be forced out of this type of work and forced to find something else, because if someone comes along that can do their job for less, then I'm sure the families will take that opportunity, just as I am sure that members of this Legislature know that if it was up to the public, and they said, "Who wants to do this job for \$1 a year?" the public would vote for someone to do it for \$1 a year—our job. They would. I'm not necessarily convinced that they would do it as well, but somebody would vote for that and somebody would agree to that. It's not necessarily what makes anything run better. Again, I ask you to reconsider before you vote it down.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 33? Those opposed? I declare NDP motion 33 defeated.

PC motion 33A.

Ms. Sylvia Jones: I move that section 11 of the bill be amended by adding the following subsections:

"Transfer of direct funding agreement

"(10) Subject to subsection (11), a person who enters into a direct funding agreement with an application"—and I'm going to add the word "entity" instead of "centre"—"may transfer the agreement to a different application entity in accordance with the regulations if,

"(a) the person on whose behalf the agreement is entered into moves to a different geographic region; or

"(b) the person is not satisfied with the quality of services received from the original application entity, even if the new application entity is in the same geographic area.

Same

"(11) The new application entity must agree to accept the transfer."

Again, this comes back to individuals receiving service or seeking service and wanting to make sure that that service is portable across Ontario.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments?

Mr. Khalil Ramal: Unless we experience some kind of portability in terms of support, like when we use the Passport allocation funding. It's a part of the regulations to smooth out and set out how the relationship between different entities is going to be, and as we mentioned in the different sections and in the past, how those entities are supposed to work together in order to assure that the recipients or the families are getting good service.

Ms. Sylvia Jones: And our amendments, by putting them in the legislation as opposed to the regulations,

would ensure that that relationship happens between the various geographic regions across Ontario.

1320

Mr. Khalil Ramal: As you heard in the morning, we set out the conditions and the standards that should be followed by the entities and how they should work together when they're funding application centres. So we don't feel it's necessary to accept this motion in order to strengthen our intent in this bill.

The Chair (Mr. Shafiq Qaadri): We'll move to consideration of PC motion 33. Those in favour? Those opposed? I declare PC motion 33 lost.

PC motion 33B.

Mrs. Christine Elliott: I move that section 11 of the bill be amended by adding the following subsections:

"Transfer of direct funding agreement

"(10) Subject to subsection (11), the responsibilities of an application centre under a direct funding agreement may be transferred in accordance with the regulations to an application centre for another geographic area if the person on whose behalf the agreement is entered into moves to that geographic area."

"Same

"(11) The new application centre must agree to accept the transfer."

Again, this is a variation on the previous one to allow for that flexibility in terms of movement.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Michael Prue: I just have a question. So if someone moves across the border, and in some cases the border may be not too very far away, this is an automatic transfer even though the former one may be able to continue delivering the service? Sometimes the service agencies cross borders.

Mrs. Christine Elliott: The idea here is just that the person isn't bound to any one geographic area. It simply

means that if they move, then they're-

Mr. Michael Prue: No, but let me phrase it in a different sort of Toronto parochial way. I understand if somebody moves from Toronto to Sudbury that you would want this, and I would want this too because it makes—but what if somebody was to move from the eastern region of Scarborough across the border into Pickering and the service agency services Scarborough and Pickering, but it's a different geographical area? I'm just trying to understand how this would work.

Mrs. Christine Elliott: I think the idea is the convenience of the transfer for the person involved. It's not required but it may be transferred. So for a move to a significant geographical distance, then it probably would make sense to transfer it but it might not necessarily if

it's a move within a shorter distance.

Mr. Michael Prue: So you're saying a shorter distance may not be covered by this or wouldn't be covered by this? Because if it's from Toronto to Sudbury, I agree with you. If it's from Scarborough to Pickering, I'm not necessarily sure that—

Ms. Sylvia Jones: The wording of the amendment as set out is "may be transferred."

Mr. Michael Prue: "May be." Okay, thank you. All right.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Khalil Ramal: We had our response at the beginning.

The Chair (Mr. Shafiq Qaadri): Thank you. PC motion 33B, those in favour? Those opposed? I declare PC motion 33B lost.

Shall section 11, as amended, carry? Carried.

Government motion 34.

Mr. Khalil Ramal: I move that the heading to part V of the bill be struck out and the following substituted:

"Part V

"Access to Services and Supports and Funding"

So basically technical and housekeeping changes, just to be consistent with the bill. We're adding "supports" and leaving "services" alone in this heading.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 34? Those opposed? Carried.

Shall section 12, as amended, carry? Carried.

We'll now move to NDP motion 35.

Mr. Michael Prue: I move that subsection 13(1) of the bill be amended by striking out "to the application centre designated for the geographical area in which the person resides" at the end and substituting "to the application centre in the geographical area in which the person resides."

It's not much of a change, but here it is: We don't believe that the original motion has been adequately captured and therefore it needs to be changed because there is not a consistent level of services across the province. We need to know that it's going to happen. I know it's a very minute point. We need to know that they're accessing an application centre outside the geographical area in which they reside. It's a very minor point. The world does not hinge on this.

Mr. Khalil Ramal: This is actually stated in many different ways in the bill at the beginning, what we meant by eliminating the application centre and replacing it with two entities—one for funding and one for the application process. They're supposed to be in the same geographic or jurisdiction area in order to ensure the continuity of the process and make it more local and accessible for the people who are applying for those services.

Mr. Michael Prue: So do you think it's a good thing or a bad thing?

Mr. Khalil Ramal: There's no need for it, and that's why we're not supporting it. Sorry.

Mr. Michael Prue: I needed to hear those words.

The Chair (Mr. Shafiq Qaadri): Any further comments? We'll move to consideration of NDP motion 35. Those in favour? Those opposed? Lost.

Government motion 36.

Mr. Yasir Naqvi: I move that subsection 13(1) of the bill be struck out and the following substituted:

"Application

"13(1) A person with a developmental disability who wishes to receive services and supports from a service agency or direct funding for services and supports under this act, or both, may submit an application for such services and supports or for such funding to the application entity designated for the geographical area in which the person resides."

Clearly it's a housekeeping provision, in accord with

earlier changes made in the legislation.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 36? Those opposed? Carried.

Government motion 37.

Mr. Joe Dickson: I move that the following provisions of section 13 of the bill be amended by striking out "services" wherever that expression appears and substituting in each case "services and supports":

"1. Subsection 13(3).

"2. Subsection 13(4)."

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? We'll proceed to the vote. Those in favour of government motion 37? Those opposed? Motion carried.

Government motion 38.

Ms. Laurel C. Broten: I move that clauses 13(5)(a) and (b) of the bill be amended by striking out "application centre" wherever that expression appears and substituting in each case "application entity".

This is a housekeeping motion, consistent with other

motions previously put forward.

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 38? Those opposed? Motion 38 is carried.

Government motion 39.

Mr. Khalil Ramal: I move that subsection 13(6) of the bill be struck out and the following substituted:

"Provision of information

"(6) An application entity shall provide an applicant with information relating to,

"(a) the services and supports that are provided by service agencies in the geographical area for which the entity is designated; and

"(b) direct funding."

This is also housekeeping, in order to clarify our position on the role of the entity in every jurisdiction and what it's supposed to do to make it more local and accessible for the people who are applying for funding services.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Michael Prue: It's not a comment; it's a question. What if an individual with a developmental disability or their direct family goes in and asks for the services and supports that are provided by service agencies in an adjacent geographical area? What if they are considering moving? Families move all the time. In my community, it's not unusual for a family to move to be closer to a school so that their kids don't have to get on the bus. It's not unusual for them to go closer to a school when their kids grow up and leave public school and go

to high school, and they change location. Families make all kinds of arrangements based on what is best for their family. What if the family wants to come in and ask what services are available in an adjacent area? Perhaps they might be considering moving one of the adults, or one of the parents has got a job in that new place. It may not be that far away. They may want to commute; they may want to move there. They come in and ask a simple question about the services and supports that are provided in the adjacent geographical area. This motion would not allow the application entity to provide that.

Mr. Khalil Ramal: We mentioned before that application entities should work together and share information. I hope they have enough knowledge about many

different jurisdictions nearby.

1330

Mr. Michael Prue: But you said that they can only answer two things: They can only answer about services in the geographical area for which the entity is designated and information about direct funding. According to this, they can't provide information on what is happening in any other area. I wonder why not, because that is important information for a family that is considering moving. It would certainly be important to me were I to have—

Mr. Khalil Ramal: But they can pick up the phone and ask. It's not like a secret, when you move, to ask—

Mr. Michael Prue: Who do you ask, then? And are they responsible to tell you?

Mr. Khalil Ramal: There's no secrecy.

Mr. Michael Prue: No, but I asked—okay, may I ask: They pick up the phone and they phone the adjoining area and say, "My application entity is not bound by law to tell me what kind of services you have. Will you tell me what kind of services you have?" And they're going to quote the same law back, that they can only provide that information in the geographical area for which the entity is designated. They're saying, "You don't live here yet. Move here and then we'll tell you."

Mr. Yasir Naqvi: You're taking a very restrictive reading to this. I don't read it that way. What I think I read is that the application entities at least have to provide information relating to services and supports and direct funding, and they can provide more information than that. It doesn't say "only"; it says, "An application entity shall provide an applicant with information relating to...." That's the minimum: They "shall provide," and they can provide anything beyond that.

Mr. Michael Prue: Well, do you want to put "at least" into the motion so they have to provide at least that?

Mr. Yasir Naqvi: Well, no. If you read it, the word "only" does not appear and no one can get the impression: "An application entity shall provide an applicant with information relating to" X and Y. But it doesn't say that that's the only information they have to provide.

Mr. Michael Prue: Perhaps we can ask the question of the legal counsel. The word "shall" is prescriptive.

Mr. Khalil Ramal: Mr. Chair, do you mind if I ask the ministry people to come?

Ms. Colette Kent: Colette Kent, director of policy with MCSS. The intent would be that somebody has to apply in the geographic area in which they live. In terms of information, though, I think there's a balance. It's correct that, at minimum, the application entity has to provide information for the geographic area. But if a family, for example, was in Toronto and wanted information on Sudbury, I would think that they would get the best information if they called Sudbury and asked for information. It doesn't say that Sudbury can't provide them the information; the issue is the application. So you have two choices: The Toronto agency could phone Sudbury themselves and they could get some information, but I think, undoubtedly, in the course of good business service, they might say, "Talk to Sudbury, which can give you more detailed information."

Mr. Michael Prue: But under the legislation, is Sudbury compelled to give that information? There's no "shall" for Sudbury.

Ms. Colette Kent: No, but I don't think that we intended in the legislation that every single good customer service thing that an agency might do would be in there. The intent around this is that right now with waiting lists, we can have people waiting at different points, so we can't get accurate numbers in terms of the people waiting. The intent is that you make an application within your geographic area so that we can keep a record of that application. If you wanted to apply in Toronto and you were planning to move to Sudbury, the expectation and the standards will be that Toronto will facilitate that referral to Sudbury, not that you have to go to Sudbury and apply separately.

Mr. Michael Prue: Well, it's part of the record now, so I have that assurance from staff and from government that that's the intent, in spite of the fact it's not in the

legislation.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll consider the vote. Those in favour of government motion 39? Those opposed? I declare it carried.

Shall section 13, as amended, carry? Carried.

Government motion 40.

Mr. Yasir Naqvi: I move that section 14 of the bill be amended by striking out "application centre" wherever that expression appears and substituting in each case "application entity."

It's merely a housekeeping amendment.

The Chair (Mr. Shafiq Qaadri): Comments? Those in support of government motion 40? Those opposed? Carried

Government motion 41.

Mr. Joe Dickson: I move that the following provisions of section 14 of the bill be amended by striking out "services" wherever that expression appears and substituting in each case "services and supports":

- 1. Subsection 14(1)
- 2. Subsection 14(2).

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

PC motion 41A.

Mrs. Christine Elliott: I move that section 14 of the bill be amended by adding the following subsection:

"School assessment

"(3.1) The documentation provided under subsection (3) may include any assessment prepared for school purposes."

The reason this amendment was included was to address some of the families' concerns about adequate assessments having been done previously that are still relevant because the diagnosis doesn't change.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Khalil Ramal: Would you mind explaining just a bit more?

Mrs. Christine Elliott: I think the idea of it is that the diagnosis for people with an intellectual disability doesn't fundamentally change over time, so if that assessment has been made previously, there's no point in requiring the family to go through a further assessment, in the sense that what was relevant then in terms of the basic findings will remain the same over time, so that should be satisfactory for the purposes of this bill as well.

Mr. Khalil Ramal: We're voting against this one. The reason is, the needs will change. Maybe the disability exists since birth, but the needs and requirements for service and support will change. That's why we require an assessment every once in a while, in order to determine the needs of the people with a disability.

Mrs. Christine Elliott: However, that's only for the purpose of making a determination with respect to

eligibility, not for service provision.

Mr. Khalil Ramal: Yes, eligibility will change, so from childhood to adulthood—because this bill deals with adults, not with children, so it might be sometimes that some people will be diagnosed as disabled in their school time, but when they grow up and go to regular life, they function well with society. So maybe that condition will change, unless it's an obvious condition. We're taking into our consideration that assessment from before; it's not going to be thrown in the garbage. But to make sure the eligibility is still in the same fashion and the needs are still the same, we should, I think, to make it more accountable, reassess people every once in while to see their needs and to assess also how we can fund them.

Mrs. Christine Elliott: I would still submit, though, that in terms of basic eligibility, a developmental disability is something that, if you have it through child-hood, you're going to have it through adulthood as well. It's—

Mr. Khalil Ramal: Definitely. We're not—

Mrs. Christine Elliott: I agree with you that the need for services may change, but the basic eligibility should remain the same from childhood into adulthood.

Mr. Michael Prue: In many cases I would agree with you, but there are cases, and I have seen some remarkable examples of autistic children, who, after a year or two of education, are able to function at much higher levels than what the original assessment showed. I'm just a little bit nervous about passing on assessments two,

three, four years after the fact where there have been some considerable improvements due to the success of ABI or IBI, and just to leave it so open-ended. Would you consider saying "an assessment made in the previous year," or something that would assuage my fears?

I'm just worried about leaving this open-ended because of the great success of many of the educational and social programs that have been instituted in this province and how much they have helped some people to go that extra little bit, to not have the same kind of diagnosis, maybe to have a better one.

At the same time, I also see people who occasionally, from time to time, through no fault of their own, actually become worse as conditions get worse. I want to save the money of the government, because I don't think we need to have assessment after assessment in every case—and you're right—but at the same time I want to make sure that there is that opportunity to do new assessments if either the condition worsens or it gets better and that we not rely on outdated things. So I'm just asking: Can you put a time limit on it?

Mrs. Christine Elliott: I would simply say, though, that this is really for the convenience of the individuals and the families. If they chose not to use that school assessment, then they wouldn't be required to. This isn't prescriptive; again, it uses "may." So if the family said, "Nothing's changed; we want to just continue to use the assessment that we had before," that's fine. And I would expect that if they felt that things had changed dramatically and that the person no longer had the disability to the same extent, then they would have asked for a new assessment. So this is something that the families may choose to use or not—it gives them that flexibility.

Mr. Khalil Ramal: Sometimes, the assessment is done by a medical professional to give an accurate assessment, and also, to have one set of standards across the province of Ontario. It's very important to have some kind of consistency across the whole province in how we can assess people, which parameters and which conditions we should examine before we issue the report.

We're not saying that school does not give us clear indications—but not all the indications. We have to depend on medical professionals in order to assess, because when you're a child, it's different than when you're an adult. There is a difference, so that's why when we assess people, it's going to directly affect the funding, which is going to be tied automatically with the assessment.

Ms. Sylvia Jones: Would you be prepared to support the amendment if we included the words "may include any medical assessment prepared for school purposes"? If your concern is that there is no consistency in what is happening at the school level, which I think is what I'm hearing from you—

Mr. Khalil Ramal: You mentioned talking about the assessment should carry on. Mr. Prue outlined the concerns very well when he mentioned that sometimes you are assessed as a person with a disability, for some kind of training or education, and you pass that level and you function very well. That's why we're saying from this side that we need to assess people and set out standards across the province of Ontario, similar ones, consistent ones, in order to have some kind of ability to measure. We would have one measurement, so—

Ms. Sylvia Jones: So you believe the school system, as it assesses right now, is not consistent across Ontario?

Mr. Khalil Ramal: No. You cannot say that it's consistent because some people use parameters that are not used somewhere else, and some use professional ones and some don't. It's not the only indicator that we use; we use many different elements in order to assess people. Therefore, we think that one unified assessment across Ontario is needed in order to determine if a person is eligible or not eligible.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we'll consider the vote. Those in favour of PC motion 41A? Those opposed? Lost.

NDP motion 42.

Mr. Michael Prue: I move that section 14 of the bill be amended by adding the following subsection:

"Common assessment practices

"(4.1) The methods of assessment or criteria prescribed under subsections (3) and (4) shall include common assessment practices and tools to be used across the province."

The rationale here is that we understand that this may be contained in the regulations under the bill. We believe it is important that the legislation specify common practices and tools in order to ensure consistency of services and supports across the province. In other words, I'm saying that it's not good enough to have it just in the regulations. If you have it in the bill itself, then the regulations can flow from it and the whole world can see that that was the intent of the legislators in the first place.

The Chair (Mr. Shafiq Qaadri): Any comments?

Mr. Khalil Ramal: It would be really difficult to outline everything in the bill. We have to put the general ideas as a bill, and then when you go to regulations, specify the parameters and the conditions that should be required in order to qualify a person or not qualify a person. If this bill is passed, the regulations would set out the standards for qualifications.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, those in favour of NDP motion 42? Those opposed? Lost.

Mr. Michael Prue: Mr. Chair, I challenge that. I saw three votes to three votes. I think you have to cast the deciding vote. I did not see—

The Chair (Mr. Shafiq Qaadri): I accept that, Mr. Prue. I will cast the deciding vote against the NDP motion.

Mr. Michael Prue: All right, thank you.

The Chair (Mr. Shafiq Qaadri): I now invite you to consider, shall section 14, as amended, carry? Carried.

I now invite you to present, Mr. Ramal, government motion 43.

Mr. Khalil Ramal: Laurel.

Ms. Laurel C. Broten: I move that section 15 of the bill be struck out and the following substituted:

"Notice of determination

"15. The application entity shall give the applicant, or a person who applied on the applicant's behalf under section 13(2), or both, notice in writing of its determination as to whether the applicant is eligible for services and supports and funding under this act and of the reasons for the determination."

The Chair (Mr. Shafiq Qaadri): Are there any comments? Seeing none, those in favour of government motion 43? Those opposed? I declare it carried.

Shall section 15, as amended, carry? Carried.

Government motion 44.

Mr. Khalil Ramal: I move that subsection 16(1) of the bill be struck out and the following substituted:

"Review of determination

"(1) If the application entity determines that an applicant is not eligible for services and supports and funding under this act, the applicant, or a person acting on his or her behalf, may request a review of the determination in accordance with the regulations."

This is also housekeeping to clarify many different elements of the bill, especially, when you apply for funding and you are declined, how you can go about asking for a review to know why it's been refused.

Mr. Michael Prue: You're talking about a review, and I would take it that in a review the same person who made the decision would be compelled to review their decision. The person who said, "You are not eligible," would review their own decision and determine whether he or she was in fact right. This is not an appeal, as is envisioned in the next motion; this is simply having the maker of the decision look at their decision again to verify that in fact they were correct.

Mr. Khalil Ramal: Well, most of the time, and it's happened in many different sectors of the government, people apply for certain services and their application or request has been denied. Then once there is more evidence and more documentation, the person who looked at it the first time will look at it again and review it and give support and make them eligible. It's a common review in the government.

Mr. Michael Prue: Who is doing the review? Officer X says, "You're not getting this approval." Who makes the review? Is it the same officer?

Mr. Khalil Ramal: To my knowledge, the same office. We can ask Colette. We're talking about the review for applications.

Ms. Colette Kent: Who does the review of-

Mr. Michael Prue: Who does the review? Government motion 44 is different from 45; 45 talks about an appeal. We know that an appeal process involves a third party or someone different. This is a review, and I want to know who does the review. Does the same officer do the review—review his or her decision—and confirm that it's correct?

Ms. Colette Kent: Sorry, just give me one second.

Mr. Michael Prue: All right, sure.

Ms. Colette Kent: Normally, we have sort of an escalated process of review. Within the organization, the first level is the actual review itself, and then you would expect that it would move up to a higher level in the organization for a review of that.

Mr. Michael Prue: So there's a review of a review. Is that contained elsewhere in the act, that there is a review of the review?

Ms. Colette Kent: No. I don't believe so.

Mr. Michael Prue: So the only thing the act says is that the review will go back to the same officer who made the original refusal.

Ms. Colette Kent: That's not what I'm reading.

Mr. Michael Prue: What does it say, then?

Ms. Colette Kent: This was amending—this was just a housekeeping amendment, right?

Mr. Michael Prue: Yes, that's an amendment.

Ms. Sylvia Jones: In the original subsection 16(1), they've only added the word "supports." That's the only change.

The Chair (Mr. Shafiq Qaadri): I understand, Ms. Jones, but maybe leg counsel would like to weigh in on it as well.

Mr. Michael Wood: The way it is written now, yes, it is the application centre that made the original determination that would conduct the review. It might be a different person in the application entity.

Mr. Michael Prue: It might be or it may not bewhoever it is.

Mr. Michael Wood: Yes, but it still is the same application entity. That is the way it is presently written. It is correct, as various speakers have said, that that type of mechanism does occur in other legislation. 1350

Mr. Michael Prue: May I ask the government—there are appeals. If someone is in a long-term nursing home, there is an appeal mechanism. You don't go to a review, you go to an appeal mechanism. I'm just trying to think of all of the ones that are available, but the long-term nursing home jumps right out to me. Why are you suggesting a lesser standard for people with developmental disabilities? Don't they deserve the full right of appeal that one would have if one lived in a nursing home?

Mr. Khalil Ramal: The concern you're talking about is not relevant to the amendment we're talking about here. We're talking about outlining the role of the entity when they accept or refuse the applications. Normally, as I mentioned many different times, many different government agencies that provide services sometimes refuse. I'll give you an example: ODSP or Ontario Works or many others. They ask you for a lot of different information, sometimes medical reports, sometimes new evidence every time in the review of an application; the same people make you eligible again. Same people, same group, same everything. So instead of creating many different layers, this is what we've experienced and we are copying from other procedures-you know, adopted many different sections of-

Mr. Michael Prue: What I'm trying to find out, in the case—if you are on ODSP and you are refused, you have a right of appeal. If you are in a long-term nursing home and something goes wrong, you have the right to appeal the decisions that are made. This is very different from a right that you are trying to give here, which is only a right of review. I'm trying to understand why you want to give people with developmental disabilities a lesser right than you would give to people in long-term nursing homes or those who are on Ontarians with disabilities. I don't understand why you want to give them a lesser right. If you can tell me why you want to give them a lesser right, I may accept that. I just don't understand why.

Mr. Khalil Ramal: We give them a right to another review. So this, I think, would be common because basically, as we mentioned, the person is born with disabilities, and most of the time we carry that information from childhood to adulthood with minor changes. But this is what we've said in this bill. We consider it's enough and sufficient in order to make them eligible.

Mr. Michael Prue: If I could speak to it, then, if there are no more questions.

The Chair (Mr. Shafiq Qaadri): Are there any further comments? Seeing none—

Mr. Michael Prue: No, I wanted to speak to it now. I just wanted to know if anyone else had other questions.

Mrs. Christine Elliott: If we could just make the comment that we agree with your concern here, that this is something that should be right of appeal rather than right of review.

Mr. Michael Prue: If I can speak, it seems to me that the government has two standards by which it can live. The first one is to give a right of appeal, which you have given to people who are on ODSP if they are refused. Many of the people will be some and the same people not many but some will be some and the same—who are persons with developmental disabilities, because many people with developmental disabilities find themselves at some portion of their lives on ODSP. You have also determined that people who live in nursing homes, many of whom have dementia or related cognitive disorders, have the right of appeal, they and their families have the right of appeal. You have determined in those cases to take it out of the hands of the bureaucrats who originally dealt with it—and I don't use that in a pejorative sense; I was once a bureaucrat myself. You're leaving it in their hands rather than having an impartial third body look at

I do not understand nor do I accept the rationale that has been given by the parliamentary assistant. It seems to me that if people are going to be able to challenge what is happening to them, then they should be able to challenge it in front of an impartial third body and not challenge it merely back to the person who has already made the decision against them.

I find this—I don't know how to say it, and I want to be gentle. I find this paternalistic in terms of developmentally delayed or developmentally disabled people, because they are not being accorded the same rights that we would accord others who find themselves with sometimes the same cognitive impairment. We have recognized in other people that they need a better mechanism in order to get their message across. They need someone impartially to look; they need not to go back to the same people who are making the decision against them, whether it be in a nursing home or in a welfare office. But here we are saying, "No, you don't have that right. You have a limited right. You have the right to go back to the person who said no in the first place, and that's all there is."

I think if the legislation was to be truly progressive, then you would offer a right of appeal. I don't want to tout the next one, because I know you're going to vote against it because you're so strongly in favour of this one, but the next one is suggesting a right of appeal. Groups such as ARCH came before the committee. ARCH was there in Ottawa—they made the long trek up—and they talked about the right of appeal and how important that was from a legal aspect to persons with disabilities, that persons with disabilities have almost no rights in our system. And for you to deny them a further right that one would give to a nursing home person or to a person who was on ODSP I do not think is in the true sense and intent of the purpose of this bill.

So I'm asking you to reflect long and hard on what you're doing here. If you pass this motion and then deny the next one, which is the right of appeal before a separate body, which I think would be fair and give them the same rights as other Ontarians enjoy with similar, oftentimes cognitive, disabilities, then I think you would be doing a great disservice.

I cannot support this motion; I will not support this motion. I understand the government may do so, but I'm asking you to look long and hard at the next one and determine whether or not it is in fact where you want to go in this direction. If there is one key thing—I have several—I can focus in on, of four or five key things I want to say about this bill, this is it. Give those people the same rights that all of us have come to enjoy when dealing with government bureaucrats.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we'll proceed to the consideration of government motion 44.

Mr. Michael Prue: On a recorded vote, please.

Ayes

Broten, Dickson, Naqvi, Ramal.

Nays

Elliott, Jones, Prue.

The Chair (Mr. Shafiq Qaadri): Government motion 44 carried.

Shall section 16, as amended, carry? Carried.

We now proceed to NDP motion 45.

Mr. Michael Prue: I know it has no chance now of success, but I'll read it out all the same.

I move that the bill be amended by adding the following section:

"Appeal

"16.1(1) If an application centre determines on a review that an applicant is not eligible for services and funding under this act, the applicant, or a person acting on his or her behalf, may appeal the determination to a director in accordance with the regulations.

"Information

"(2) The application centre shall provide the person appealing the determination with information about the appeal procedure.

"No reprisal

"(3) No person shall take a reprisal against an applicant who has appealed or a person who has appealed on

the applicant's behalf."

If I can, and I realize the possibility of this now succeeding after having taken the last vote is remote, it seems to be that one offers a full right of appeal to a person with a developmental disability either directly or by his or her family or caregiver, and that it can be made to an impartial person. It sets it up with a director, it sets it up at a higher level; it's not the same person making the decision. It also ensures that the information on the appeal is given out. The previous one did not do that. And last but not least, it ensures that there is no reprisal.

Now I do not think that many will reprise against someone who is simply trying to exercise his or her rights either directly or on behalf of a family member, but I do think it's important to set out in the legislation that people ought not be afraid to challenge the decisions that are being made that directly affect their lives. This seems to me to be the much cleaner, more ethical and more moral way of dealing with appeals or in re-determinations than that which was proposed by the government.

I am sorry that they have passed or seen fit to pass their own motion ahead of this one, but if you want to vote for it, maybe you can see fit, before the day it comes back to the Legislature, to withdraw your own in favour of something that I am sure is fairer, more judicially and legally sound than the one you've just passed.

1400

Mrs. Christine Elliott: We would concur with Mr. Prue's observations. In the interests of saving time, I won't repeat what he said, but the need to give a similar right to a person with a developmental disability as to other Ontarians is quite important.

You can see from the next motion that we have filed a very similar amendment. Again, I'm sure it doesn't have much of a chance of success, but I think it's a very important point and something that we really need to reflect on if we're going to achieve a bill that's truly transformational.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Khalil Ramal: I have no further comment on this motion, but I would say it's important to make sure—when we cancelled or eliminated the application centres, we created two entities, one for the process of application and one for funding. We want to separate them in order

to eliminate the conflict of interest and not to face some kinds of obstacles and barriers among the people with disabilities. Therefore, this point will be taken into our consideration. Hopefully it will be addressed in regulations when we set up the standards and regulations in the future.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Michael Prue: Recorded vote again, please.

Ayes

Elliott, Jones, Prue.

Nays

Broten, Dickson, Naqvi, Ramal.

The Chair (Mr. Shafiq Qaadri): It's lost.

PC motion 45A.

Ms. Sylvia Jones: I move that the bill be amended by adding the following section:

"Appeal

"16.1 If the application centre determines on a review that an applicant is not eligible for services and funding under this act, the applicant, or a person acting on his or her behalf, may appeal the determination to a director in accordance with the regulations."

Not to beat a dead horse, but I think we've had enough discussion about why we in the opposition feel it's important for individuals to have that right of appeal separate and apart from where the initial review takes places.

The Chair (Mr. Shafiq Qaadri): Comments? Seeing none, we'll proceed to the vote. Those in favour of PC motion 45A? Those against? Lost.

Government motion 46.

Mr. Yasir Naqvi: I move that section 17 of the bill be struck out and the following substituted:

"Assessment and prioritization

"17(1) If an applicant is determined to be eligible for services and supports and funding under this act and if, in the case of an application for direct funding, the requirements for direct funding specified in subsection 11(1) are satisfied,

"(a) an application entity shall assess the applicant's needs for services and supports using the method of assessment specified in a policy directive; and

"(b) a funding entity shall prioritize the provision of services and supports and funding to the applicant in accordance with sections 18 and 19.

"Participation of person with developmental disability,

"(2) An assessment under clause (1)(a) shall provide the person with a developmental disability, and any person who submitted an application under section 13 on his or her behalf, an opportunity to participate in the assessment and shall take into consideration the preferences of such persons."

This is a housekeeping amendment in light of the changes we just made, using the term "services and sup-

ports," and the application entity and funding entity differentiation.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mrs. Christine Elliott: Again, I would have to indicate that because the essential planning component is not specifically set out here—we've got assessing the "needs for services and supports." It doesn't talk about conferring with the person, doesn't speak about their caregivers, their families, and actually having that separate, independent planning function. It's something that we find impossible to support.

Mr. Michael Prue: I just have a question. It seems to me that this is, because of the title, an assessment and prioritization. Am I to take it that this is an attempt by whomever to determine people's rights in a priority sequence? The reason I'm asking that is because I am still troubled by the government's lack of action on waiting lists. When one goes into a priority process, there are those who are put to the top of the line and those invariably who are put to the bottom of the line. Is the intention here to determine which people shall move ahead at which speed and which ones will not? Is that the intent of this particular section? Is that why the prioritization has been included?

Mr. Khalil Ramal: We want to be consistent across the bill. That's what this amendment is all about—not to change the intent or the direction, just to be consistent all the way from the beginning up to now. That's why we brought forward this motion.

Mr. Michael Prue: So is it the government's intention to prioritize and, I guess, allocate on the basis of resources? Is that what this portion of the bill is going to do?

Mr. Khalil Ramal: Of course, when this bill passes, the government or the minister is going to ask for resources to fund this bill. It's going to be about priorities: Who's going to be first, second and third and the whole spectrum.

Mr. Michael Prue: So that is the intention of this section, to prioritize. All right. Thank you.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Yasir Naqvi: On a point of order, Mr. Chair: Just for my own educational purposes, I have a question in terms of procedure. When we're dealing with amendments to provisions, are questions limited to that amendment or could they be relating to anything about that original provision in the bill? I'm just a rookie member, so I figure I'd educate myself.

The Chair (Mr. Shafiq Qaadri): Leg counsel?

Mr. Michael Wood: To answer your first question: If we have a motion that replaces a whole section, then potentially you can discuss anything that's in that section even if it is repeating wording that was in the original version of the bill.

Mr. Yasir Naqvi: So in a situation such as the technical one, if there was a housekeeping amendment, the question could be to that original provision?

Mr. Michael Wood: It could be to anything which is shown in the text of the motion, even if those words appear in the original version of the bill.

I wanted to make another remark, though, and perhaps provide information to members: In the new clause 17(1)(b), the role of the funding entity, there's a reference to prioritizing the provision of services etc. in accordance with sections 18 and 19. So you do have to read the following sections, and I believe it's in subsection 19(1) where it talks about the role of—this would be the funding entity, I believe. Yes, because it's the funding entity in section 18 that develops the service and support profile in section 19 and then it has to prioritize the application based on information contained in the applications and the—I'm reading the wrong motion.

The Chair (Mr. Shafiq Qaadri): Also, just in answer to your question, Mr. Naqvi, I think various members have been known to wax quite eloquent on a range of topics not necessarily related to the bill before them. Now, having said that—

Mr. Michael Prue: But I'm not doing that.

The Chair (Mr. Shafiq Qaadri): Never to imply that, Mr. Prue.

Mr. Yasir Naqvi: I wanted clarification so I can do the same thing in the future.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on government motion 46? Seeing none, we'll now proceed to consideration vote. Those in favour of government motion 46? Those opposed? Government motion 46 carries.

PC motion 46A.

Mrs. Christine Elliott: I move that sections 17 and 18 of the bill be struck out and the following substituted:

"Life Plans and Prioritization for Services and Funding

"Roster of planners

"17(1) The minister shall establish a roster of planners who, in the opinion of the minister, have the qualifications required to assist in developing a life plan under section 18 for a person with a developmental disability.

"Agreements with planners

"(2) The minister may enter into agreements with planners with respect to the development of life plans under the act.

"Referral to planner

"17.1 If an applicant is determined to be eligible for services and funding under this act, the application centre shall refer the applicant to a planner so that he or she may assist the applicant develop a life plan.

"Same

"(2) The application centre shall consult with the applicant in selecting the planner from among the list of planners that are included on the roster of planners and that are available in the geographic area in which the applicant resides.

"Life plan

"18(1) A planner shall assist an applicant in developing a life plan that will,

"(a) describe the immediate and long-term goals and

aspirations of the applicant; and

"(b) determine the services funded under the act and other resources or programs available in the community that are required in order to meet the goals and aspirations referred to in clause (a).

"Purpose of life plan

"(2) The purpose of a life plan is to advance the best interests of the applicant based on the goals and aspirations of the applicant, as identified by the applicant and his or her family and caregivers.

"Life plan development process

"(3) In developing a life plan, the planner shall,

"(a) consult with the person with a developmental disability for whom the plan is being developed and with his or her family members or caregivers in order to assist them in determining the person's immediate and longterm goals and aspirations;

"(b) inform the person with a developmental disability and his or her family members or caregivers about the services funded under the act and other resources and programs that are available in the geographic area in which the person with a developmental disability resides;

"(c) assist the person with a developmental disability and his or her family members or caregivers in determining which services funded under the act or other resources and programs would assist them in attaining the person's immediate and long-term goals and aspirations.

"Written plan

"(4) The planner shall prepare a written document setting out the life plan.

"Signature

"(5) The written life plan shall be signed by the person with a developmental disability or by another person on his or her behalf.

"Plan filed with application centre

"(6) The planner shall file the written life plan with the application centre that referred the applicant to the planner.

"Review of life plan

"(7) A planner shall review a life plan prepared under this section every five years or earlier if there is a material change in the circumstances of the applicant.

"Same

"(8) Subsections (2) to (6) apply with necessary modifications to a review of a life plan conducted under subsection (7)."

This is really the heart of the amendments that are being put forward by the PC Party and indicates the necessity, in our view, of having the planner involved in developing the life plan, first of all to inform the individual and the family members about the services and supports that are available, not just in terms of those available with service agencies, but again to achieve the social inclusion into the community. That is what the transformation is all about. It also relies on the individual to make their views known, to the extent that they're able, to the planners, who can then assist them in developing a plan for their whole life and not just one part of it. And it allows them to participate, again, as fully as they're able, in the decision-making process through the concept of supported decision-making with the assistance of planners and any other assistance that they might feel they need in order to help the person make their views known. This is the lynchpin, in our view, for the success of this bill going forward to achieve the inclusion in the community.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Michael Prue: Mine is not a comment, it's a question; I may comment later. The question is: There is no definition here of what constitutes a planner, and I am wary of going outside the level of expertise that already exists in the province. Is it the intention of this motion that people who act independently or profit would be

included? Because it doesn't state this.

Mrs. Christine Elliott: It could be possible, in the sense that it would be on a roster that would have to be approved by the ministry. So it wouldn't just be that anyone could come forward, call themselves a planner, and put themselves out there as being skilled in the ability to develop life plans for persons with developmental disabilities. They would have to be approved by the ministry in the same way that capacity assessors, for example, under the consent and capacity legislation, are able to become part of that roster. There would be control on the part of the ministry about who would be able to be a planner, and they would certainly check into credentials. So there would be that accountability mechanism that would be built into it.

Mr. Michael Prue: Would the planner, if the planner was independent, be able to set their own fees?

Mrs. Christine Elliott: Under the system we've established, no, that would be established through an agreement with the ministry. The ministry would pay for only a set amount in terms of fees for the planners. The ministry would control how that would happen; they would be able to assess whether the services being provided by the planner are fair value or not. So, no, they wouldn't be able set their own fees that they could just send a bill to the ministry. No, it would be the other way around: The ministry would indicate what they're prepared to pay for.

Mr. Michael Prue: All right, so this would be a fee for service. The government would set the fee, and if a person wanted to be on the roster, they would have to accept that fee and they would be forbidden by law to charge additional amounts, as some doctors try to go around charging additional fees. I just want to make sure

we're protecting vulnerable people.

Mrs. Christine Elliott: Yes. It would be a set fee for a particular service, recognizing that some life plans would be more complicated than others. For example, a life plan for someone who chose the independent funding arrangement might be more complicated than someone who chose service from a service provider with maybe some certain other components added into it—that would be a more complicated life plan. So depending on the nature and extent of the service being provided, that would determine the fee, but it would be controlled by the ministry to ensure value.

Mr. Michael Prue: Thank you.

Mr. Khalil Ramal: Thank you very much for putting forward this motion. The government recognizes the importance of providing planning to individuals and their families to look after their needs. I want to tell you that there already exists within our ministry—the ministry, this year, funded three demonstration sites in order to conduct information to advise the ministry on how we can establish a framework for planning, including options for independent planning, or whatever exists in the marketplace at the present time. So we don't see the need for it; it's already in practice.

Mrs. Christine Elliott: I would submit, though, that this is such an important part of the transformation that it really needs to be enshrined in the legislation and not simply left to regulation to ensure that it happens in the way that it's supposed to happen. It can't be an ad hoc, "Let's provide some planning services." This is really key to the success of the whole transformation and for that reason, we believe that it needs to be included as a

separate section within the legislation itself.

Mr. Michael Prue: A question to the parliamentary assistant: Can you tell me where these three demonstration sites are?

Mr. Khalil Ramal: I don't have enough information. Maybe you can provide—do you mind if we provide it later on?

Mr. Michael Prue: Do they not know? I don't know that they're listening. Do you know where the demonstration sites are?

Ms. Colette Kent: Windsor, Algoma and the third one—we can get that information to you.

Mr. Michael Prue: All right. But for the record, Mr. Speaker, I did hear "Windsor" and "Algoma," and the other one will be forthcoming. Is that fair enough?

Ms. Colette Kent: Thunder Bay.

Mr. Michael Prue: Thunder Bay. All right. Because I don't think that it's going to pick it up from there. Thank you very much.

The Chair (Mr. Shafiq Qaadri): And thank you, Mr. Prue. Are there any further comments or questions?

Mrs. Christine Elliott: A recorded vote.

Ayes

Elliott, Jones, Prue.

Navs

Broten, Dickson, Naqvi, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost. Shall section 17, as amended, carry? Carried.

We will now move to NDP motion 47—and I'll also just share with the committee that we are now approximately 25% of the way through the consideration of amendments.

The Chair (Mr. Shafiq Qaadri): NDP motion 47.

Mr. Michael Prue: We're really moving right along

I move that subsection 18(2) of the bill be amended by striking out "and the resources available under this act" at the end.

The rationale is that underfunding must not be used as a rationale for reducing service or supports to any individual who has been determined to be eligible. A service profile must determine the service needs of an individual based on their needs alone, and therefore, we do not want to include the words "and the resources available under this act" because, if the government does not properly fund it, then all of this is for naught. So we don't think that should be in the act and we ask that it be removed.

Mr. Khalil Ramal: I can speak for what's available to us. I guess whatever resource is available, the funding should be based on it. That's our answer.

Mr. Michael Prue: And if there's no money, there's no resource

Mr. Khalil Ramal: Well, I'm talking about—yes, that's why we're not supporting it. We want to work within our resources.

The Chair (Mr. Shafiq Qaadri): Are there any further comments or questions? Seeing none, we'll consider NDP motion 47. Those in favour? Those opposed? Lost.

NDP motion 48.

Mr. Michael Prue: I move that clause 18(3)(b) of the bill be amended by striking out "and the amount of funding available under this act for those services" at the end.

The rationale is pretty much the same as the last one, which was just defeated. We think that by including this in the act, this is a licence for the government to not put in the necessary resources and for the services, therefore, not to be provided. We would prefer to have it down there, thus forcing the Ministry of Finance, in the budget bill, at that time of the year next March or April, to come across with the necessary funds to do what this bill intends to do, as opposed to leaving a loophole big enough to drive a Sherman tank through it, so they can simply say no, and what everyone is expecting to happen will therefore not happen.

1420

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we'll move to consideration of NDP motion 48. Those in favour? Those against? Lost.

Government motion 49.

Mr. Joe Dickson: I move that section 18 of the bill be struck out and the following substituted:

"Service and support profile

"18(1) A funding entity shall develop a service and support profile for each applicant who is determined to be eligible for services and supports and funding under this act.

"Contents

"(2) A service and support profile shall set out the services and supports that may be provided by service agencies under this act or for which direct funding may

be provided under this act, or both, as the case may be, based on the applicant's needs and the resources available under this act.

"Development

"(3) In developing a service and support profile for a person with a developmental disability, a funding entity shall apply the method of resource allocation specified in a policy directive to determine which services and supports may be provided to the person under this act and the amount of funding available under this act for those services and supports."

The motion to strike this section and replace it with the provisions outlined is due to the introduction of an application process with separate application and funding entities and, of course, the use of services and supports. It's a housekeeping matter in nature, previously put forward.

The Chair (Mr. Shafiq Qaadri): Further comments, questions? Seeing none, those in favour of government motion 49? Those opposed? Carried.

Shall section 18, as amended, carry? Carried.

PC motion 49A.

Ms. Sylvia Jones: I move that subsection 19(1) of the bill be struck out and the following substituted:

"Prioritization, waiting list

"19(1) Upon receipt of an applicant's life plan prepared under section 18, an application centre shall prioritize the application along with other applications for services or funding received under subsection 13(1) based on information contained in the applications and their respective life plans."

It comes back to the motion that was not passed, where we are trying to reinforce the importance of the life plans in what you're bringing forward in Bill 77.

The Chair (Mr. Shafiq Qaadri): Any comments, questions?

Mr. Khalil Ramal: We spoke about this one before, and it would be the same answer.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 49A? Those opposed? Lost.

NDP motion 50.

Mr. Michael Prue: I'm not sure of the legality of this, so you'll have to advise me after I've read it.

I move that subsection 19(3) of the bill be struck out.

I know it's within my purview to simply vote against it, but I wish to speak against this section of the act if this motion is not in order.

Interjection.

The Chair (Mr. Shafiq Qaadri): You're cleared. Proceed.

Mr. Michael Prue: Proceed on the basis that this is a motion that can be dealt with?

The Chair (Mr. Shafiq Qaadri): Yes.

Mr. Michael Prue: Okay, thank you. Then I move that subsection 19(3) of the bill be struck out.

My rationale for this is that we do not believe that a person with a developmental disability should be forced to linger on a waiting list when they have been assessed and the necessary services determined. When the need has been identified, a level of service to address that need must be provided. It is very odd—I would say very strange and bizarre in the extreme—that waiting lists be entrenched in legislation. I am unaware of another single piece of legislation in this province that has set out waiting lists in the legislation.

I am not naive. I know there are waiting lists for hospital services, I know there are waiting lists for housing, I know there are waiting lists for summer camps and waiting lists for a thousand things in this province, but I have never before seen it in legislation. It is very odd to have waiting lists entrenched here. Even proposing these waiting lists points to the chronic underfunding in this sector. An adequate level of funding is required so that waiting lists do not have the opportunity to exist.

I do not want to see this bill go forward with a waiting list. I think virtually every person who came before the committee over four days talked about abolishing the waiting lists. They talked about how this was something that they did not want to see in the law, and they have asked that it be removed. This is my attempt in so doing; if the government has other attempts, I will entertain them all. But I do not believe that the developmental services sector should have waiting lists imposed upon them, and I certainly do not believe that those with disabilities have waiting lists, so that they are told, "There's nothing for you this year, nothing for you next year, nothing for years hence." That is what already exists now, and it is totally unfair.

We bend over backwards to accommodate people in other fields; I'm thinking primarily of those who live in long-term-care homes. There is a waiting list, but it is a fairly short one, and people can be accommodated in reasonable periods of time. It is not set out in the legislation there and it should not be set out here, and I am asking that this section be struck out.

Ms. Sylvia Jones: We're pleased to support this motion. I think it really calls to how we are viewing the sector as a whole, that we're prepared as legislators to say, "You can wait; your disability does not have the same value as others in other sectors," and I'm happy to support it as written.

Mr. Khalil Ramal: A waiting list is not unique to this bill. It's been common practice by different ministries and different acts through Parliament since 1994: longterm care, which passed by the NDP, and also the Social Housing Reform Act, 2000, passed by the Conservatives. So we're not reinventing the wheel here. There are provisions for waiting lists in this bill in order to make sure that people with disabilities are served very well, to look at the percentages and also to help us to see exact numbers across the province of Ontario. That's why we talk about entities of application centres and how we can coordinate all the entities across Ontario to give us a clear indication of how many people are on the waiting list and how we can serve them, and we can assess our needs as a ministry to ask for funding. So, basically, we're not the only sector or ministry—there are so many different elements of the government, so many different governments came in the history of this Parliament and founded and passed those acts which allow provisions for waiting lists.

The Chair (Mr. Shafiq Qaadri): Are there any further comments or questions?

Mr. Michael Prue: Just on a recorded vote, please.

Ayes

Elliott, Jones, Prue.

Navs

Broten, Dhillon, Dickson, Naqvi, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost. NDP motion 51.

Mr. Michael Prue: I move that subsection 19(4) of the bill be amended by striking out "may place the applicant on a waiting list for the services or funding, as the case may be" at the end and substituting "may apply to the minister for additional funds."

This does something else; this is different from the last one I did. I anticipated that the government may want to put waiting lists right in the legislation to tell the whole world that there are going to be waiting lists, but here's an alternative for people and agencies who find themselves being unable to deal with people on the waiting list, and that is that they may apply to the minister for additional funds. This will permit agencies to apply for those funds to meet the needs of the applicants they are bound to service, similar to the way that children's aid societies are able to request additional funds in order to provide mandated services. We are asking them to look after those with developmental disabilities. They know that they are there, they want to help them, and if the government will not give them enough money, this is the authority for them to come back and apply to the minister for those funds. If the minister then chooses not to make those funds available, then I guess that's a topic for discussion in the Legislature. But it is an opportunity that they can make their case: The public can hear their case, the families can know that the agencies are trying to help, they can know that it will be debated in the Legislature, and if the minister chooses not to forward those funds, then the minister needs to explain why. We're asking the government to take an unusual and courageous step and to agree with this.

1430

Mr. Khalil Ramal: We're going to say no to this motion for one reason: We believe strongly that people should come through the door, not through the door and windows. We created the entity of funding as a place to provide funding for people with disabilities after they've been assessed and become eligible; therefore, we cannot create two standards.

Mr. Michael Prue: That's an amazing analogy. The government sets the standards, the government sets the waiting lists, the government tells the agencies how to

assess them, the government will set up people to do life plans—the government will do all of these things and they will say, "Sorry, but there's no money."

I don't know how this opens up a door and a window. All it does is the same thing that you agree is a good thing for children's aid. When they don't have enough money, you say it's okay for them to come forward and say, "We don't have enough money," and for the government to determine whether that's the right thing and either forward the money or not. But you're saying that somehow the developmental services sector is very different, that when they don't have enough money, they'll not be allowed that same prerogative: They'll not be allowed to come forward, they'll not be allowed to ask for additional resources through the minister and hence through the Legislature. Why do you think that these people with developmental disabilities should be treated differently than those children who are in care?

Mr. Khalil Ramal: They're totally different circumstances, different issues. We're dealing with two different subjects. I don't think this one applies to the other one. I think we have a clear direction in this government and this ministry to create accessible and local entities for families and people to receive and seek service.

Mrs. Christine Elliott: We would certainly be happy to support this amendment being put forward by Mr. Prue, especially if there's already a precedent for it with respect to children's aid. Vulnerable people are vulnerable people, and there's no question that they need help. If they need service, they need to get service. It's not sufficient to say, "Well, we just don't have any resources." It's a question of priorities. Priority should be going to those people who need the assistance most, and this is certainly a group of people who have not been treated with the same degree of respect and priority that some other groups have. I would certainly support them getting the supports and services that they need.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Michael Prue: Recorded vote, please.

Ayes

Elliott, Jones, Prue.

Nays

Broten, Dhillon, Dickson, Naqvi, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost. PC motion 51A.

Mrs. Christine Elliott: I move that subsection 19(4) of the bill be amended by striking out "specified in the applicant's service profile" and substituting "specified in the applicant's life plan".

Again, this relates to previous motions that we've brought that emphasize the need for the whole life plan rather than just the provision of specified services.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Khalil Ramal: We're not going to support it for many different reasons.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 51A? Those opposed? It's lost.

Government motion 52—and I'd just advise the committee that this was a walk-on motion and there is a replacement motion, which should be distributed to all members.

Ms. Laurel C. Broten: I move that section 19 of the bill be struck out and the following substituted:

"Prioritization, waiting list

"19(1) A funding entity shall prioritize applications received under subsection 13(1) for services and supports or for funding based on information contained in the applications and on the service and support profiles prepared under section 18.

"Rules respecting prioritization

"(2) In prioritizing applications, a funding entity shall follow the rules for prioritizing applications set out in a policy directive.

"Waiting lists

"(3) A funding entity may establish waiting lists for services and supports provided by service agencies under this act and for direct funding and shall manage those lists in accordance with any applicable policy directives.

"Same

"(4) If there are not sufficient funds available in a funding entity's geographic area to provide one or more services and supports specified in an applicant's service and support profile immediately or, if direct funding is requested, to provide the direct funding immediately, the funding entity may place the applicant on a waiting list for the services and supports or for the funding, as the case may be.

"Report

"(5) A funding entity shall on an annual basis, within the time period specified by the minister, report to the minister the information the minister requires about the waiting lists referred to in subsection (3), and the minister shall, within 60 days after receiving the report, publish it in the manner that the minister considers appropriate."

The Chair (Mr. Shafiq Qaadri): Comments, questions? If there are none, we'll proceed to the vote. Those in favour of government motion 52? Those opposed? Government motion 52 carries.

Shall section 19, as amended, carry? Carried.

NDP motion 53

Mr. Michael Prue: I move that section 20 of the bill be struck out and the following substituted:

"Reassessment of service profiles, etc.

"20(1) After an application centre has developed a service profile for an applicant and prioritized the application, the application centre may, unless subsection (2) applies, subject to the procedures and rules for reassessment set out in a policy directive,

"(a) reassess the applicant's service profile in accordance with section 18; and

"(b) reassess the prioritization for services or direct finding, based on the reassessment of the service profile under clause (a), in accordance with section 19.

"Same

"(2) If an applicant is receiving or has received services from, a service agency, a reassessment of the applicant's service profile under subsection (1) shall be conducted by a service agency that is providing or has provided those services.

'Same

"(3) A reassessment of an applicant's service profile shall be based on the applicant's needs, not on the resources available under this act."

Mr. Chair, if I could, we are including this because we believe the greatest problem in the developmental services sector today is underfunding. Continued underfunding must not be used as a rationale for reducing service or supports to any individual who has been determined to be eligible. We are attempting to ensure that the services we want for this community are delivered.

The Chair (Mr. Shafiq Qaadri): Comments, questions?

Mr. Khalil Ramal: We will not support this motion because it would be a conflict of interest, and we've stated many different times why we are opposing this position.

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Mr. Michael Prue: If I could, what is your conflict of interest? That's usually where there's a pecuniary or other interest available to you: By voting for it, you will make money.

Mr. Khalil Ramal: No, we're talking about when the entity that assesses the person cannot be the same entity that provides service. So this would be a conflict of interest in this regard. That's why we believe it should be extinguished and there should be a separation. The assessment base should be different from the people who service them.

The Chair (Mr. Shafiq Qaadri): Any further comments or questions? Seeing none, we shall proceed to consider NDP motion 53. Those in favour? Those opposed? NDP motion 53 is lost.

PC motion 53A.

Ms. Sylvia Jones: I move that section 20 of the bill be struck out and the following substituted:

"Reassessing prioritization

"20. Subject to the procedures and rules for reassessment set out in a policy directive, an application centre may reassess the prioritization of an application for services or direct funding based on a review of a life plan prepared under subsection 18(7) or on such other information as it deems appropriate."

The Chair (Mr. Shafiq Qaadri): Any comments? Seeing none, we'll proceed to consider the vote. Those in favour of PC motion 53A? Those opposed? PC motion

53A is lost.

Government motion 54.

Mr. Khalil Ramal: I move that section 20 of the bill be struck out and the following substituted:

"Reassessment of service and support profiles, etc.

"20. After a funding entity has developed a service and support profile for an applicant and prioritized the application, the entity may, subject to the procedures and rules for reassessment set out in a policy directive,

"(a) reassess the profile in accordance with section 18"—I guess I have to read section 18; right? No—"and

"(b) in accordance with section 19, reassess the prioritization of services and supports or for direct funding, based on the reassessment of the profile under clause (a)."

Basically, this is housekeeping just to clarify our position on how we can describe the entities and the role of the entities in this bill.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we shall consider the vote. Those in favour of government motion 54? Those opposed? I declare government motion 54 carried.

Shall section 20, as amended, carry? Carried.

NDP motion 55.

Mr. Michael Prue: I move that section 21 of the bill be struck out.

My rationale is that we do not believe that any person with a developmental disability should be forced to linger on a waiting list when they have been assessed and necessary services have been determined. When need has been identified, an adequate level of service must be provided. We are fundamentally-

The Chair (Mr. Shafiq Qaadri): Mr. Prue, with respect, I've been advised to tell the committee that this motion apparently is out of order.

Mr. Michael Prue: Then can I speak to why we should defeat this when section 21 comes to a vote?

The Chair (Mr. Shafiq Qaadri): Yes. Mr. Michael Prue: Thank you, then.

The Chair (Mr. Shafiq Qaadri): Government motion 56.

Mr. Yasir Nagvi: I move that section 21 of the bill be struck out and the following substituted:

"Notice of available services, etc.

"(1) If a funding entity has placed an applicant on a waiting list for services and supports provided by service agencies or for direct funding, the entity shall,

"(a) in the case of an application for services and supports from service agencies, give notice to a person described in subsection (2) when one or more of the services and supports becomes available and refer the applicant or person to the appropriate service agency; and

"(b) in the case of an application for direct funding, give notice to a person described in subsection (2) when

the funding becomes available.

"Same

"(2) The funding entity shall give the notice mentioned in subsection (1) to the applicant, or to the person who submitted the application for services and supports on the applicant's behalf under subsection 13(2), or to both."

This is a technical, housekeeping amendment.

The Chair (Mr. Shafiq Qaadri): Comments? Seeing none, those in favour of government motion 56? Those opposed? Carried.

Shall section 21, as amended, carry?

Mr. Michael Prue: I would like to speak to section 21, if I could. I'm asking the government members not to pass section 21. You have heard, and you did hear, for four solid days-in Toronto, London, Timmins and Ottawa, plus in many, many written deputations—about not including the waiting list in the legislation. You have chosen to proceed and to put the waiting list right in the legislation. Notwithstanding the statements made by the parliamentary assistant, this is untoward. If it exists elsewhere, it ought not to have existed.

What you are saying by putting it in the legislation is that for this time, and for all times, you accept the fact that there are not going to be adequate resources to deal with those who require them, that there will be a waiting list and that there shall be a waiting list, that the waiting list shall be maintained and that the waiting list, from time to time, will be tweaked.

To tell you the truth, I find this to be abominable. I think that when you understand that people who require services, whether they choose and their families choose to access it through agencies or whether they choose to access it through independent arrangements, there still ought not to be a waiting list. You cannot state that you are assisting people in this regard when you leave them for one month, one year, 10 years, or however long the waiting list goes. By putting this in the act, you are stating unequivocally, and probably for all time, that you will be singularly unable to deal with those who most desperately require our help. I don't think you would do this to anyone else and you ought not to do it to people with developmental disabilities.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. We will now proceed to consider-

Mr. Michael Prue: On a recorded vote please.

Aves

Dhillon, Dickson, Naqvi, Ramal.

Nays

Elliott, Jones, Prue.

The Chair (Mr. Shafiq Qaadri): Section 21 carries. Government motion 57.

Mr. Joe Dickson: I move that section 22 of the bill be amended by striking out "services" and substituting "services and supports".

It's a continuation of our housekeeping under "services and supports."

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 57? Those opposed? Carried.

Shall section 22, as amended, carry? Carried.

Government motion 58.

Mr. Khalil Ramal: I move that section 23 of the bill be struck out and the following substituted:

"Provision of services and supports

"23. A service agency shall provide services and supports in accordance with,

"(a) the terms and conditions specified in its funding agreement; and

"(b) such performance standards and measures relevant to each service and support as may be required in a policy directive."

So it's still a housekeeping amendment, just to clarify our position and direction in this bill.

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 58? Those opposed? Carried.

Shall section 23, as amended, carry? Carried.

With no amendments received to date for sections 24 and 25 inclusive, I'll invite the committee to consider both together. Shall sections 24 and 25 carry? Carried.

NDP motion 59.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"Complaints procedure

"25.1 A service agency shall ensure that there are written procedures that comply with the regulations for initiating complaints to the service agency and for how the service agency deals with complaints."

Ms. Sylvia Jones: On a point of order, Chair: You just passed sections 24 and 25, but we're still debating section 25.

The Chair (Mr. Shafiq Qaadri): I just asked for the committee's will, because we had not received any amendments, to consider the vote on sections 24 and 25 together, and the vote has already passed on sections 24 and 25.

Ms. Sylvia Jones: But we're debating an amendment on 25.1.

Mr. Michael Prue: For 25.1, which comes after. *Interjection*.

Ms. Sylvia Jones: We're debating a proposed amendment for section 25.

The Chair (Mr. Shafiq Qaadri): We're actually, just for everyone's clarification, debating, at the very bottom of this page, a new section 25.1, NDP motion 59 and then PC motion 59A.

Ms. Sylvia Jones: But it's still section 25.

Mr. Michael Wood: Section 25.1 is a new section of the bill. It is not part of section 25.

Ms. Sylvia Jones: Because section 25 is (a) and (b) and then we're making proposals for section 25.1? Got it.

Mr. Michael Wood: Yes, 25.1 is considered separate from 25.

Ms. Sylvia Jones: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Prue, proceed.

Mr. Michael Prue: The purpose and the explanation for this: We believe it should be a right of an individual with a developmental disability to be able to express dissatisfaction with services that they may receive or for those that may be addressed in a serious, timely and

understanding manner. To be clear, this deals with complaints against service agencies. We are simply asking that the service agencies, by virtue of this amendment, be required to post, within the four walls of the service agencies, clearly, for people to read, that people have the right to complain, to lodge a complaint and how to go about doing it.

I would suggest that similar procedures exist in almost every one of the housing facilities in the province of Ontario that were part of Ontario housing but have now been subsumed and are the responsibility of various municipalities—exactly how to do this if you have a complaint against someone who works for that corporation, how to lodge the complaint, how to go about it. We think that this, as an example, should be done here so that people who come in and feel that they are not being properly treated know that there is an avenue of redress. It simply requires that a poster be put on the wall informing people of that right so that any complaints may be forthcoming.

Oftentimes, as you will no doubt be aware, people with developmental disabilities are the last to complain and are the last to understand their rights. This would help them to understand that they don't always have to take what is being meted out to them.

1450

The Chair (Mr. Shafiq Qaadri): Mr. Ramal.

Mr. Khalil Ramal: Because he read it twice, I guess we're obligated to support it.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 59? Those opposed? Carried.

PC motion 59A.

Mrs. Christine Elliott: I move that the bill be amended by adding the following section:

"Strikes and lock-outs prohibited

"25.1(1) Despite anything in the Labour Relations Act, 1995, no employees of any of the types of residences for persons with disabilities listed in subsection (2) shall strike and no employer of such employees shall lock them out.

"(2) For the purposes of subsection (1), the types of residences are:

"1. An intensive support residence.

"2. A supported group living residence.

"3. A supported independent living residence."

This is to address a concern that was expressed to us by individuals and their families, particularly when we were in the London committee hearings, about an unfortunate situation involving a strike about a year ago with a service provider, where the residents were very upset with the picketers being in front of their residences. The idea is that their homes should be sacred and it's a home like everyone else lives in and shouldn't be subject to being picketed during the course of a strike. That's not to say that head offices and offices of those agencies can't be picketed; just not the specific residences, to allow the people who live there the same right to sanctity of their home as everyone else has.

The Chair (Mr. Shafiq Qaadri): Any comments?

Mr. Khalil Ramal: We're not going to support this for one reason: because they're things that are not within our jurisdiction. The Ministry of Labour is responsible for labour relations according to the act of 1995. Also, any stakeholder, organization or community living agency can discuss that during the bargaining agreement with labour when they sign the agreement. So we feel it's not our responsibility, in this regard, to discuss this issue.

The Chair (Mr. Shafiq Qaadri): Any comments?

Mr. Michael Prue: I can't support this either. I'm thinking back to Mr. Thomas, the president of OPSEU, who came before the committee and said in order for this to pass, there would have to be some negotiation between the government and his union. There have been negotiations in the past on other collective agreements, but certainly the government had not initiated one on this. They do have a collective agreement, and the collective agreement allows them the opportunity to strike. I do understand the Conservative motion would limit the picketing and not the right to strike, but in any event, this is the subject of negotiation and it would have to be done in advance of this being included in the legislation. To do otherwise would go against the body of the collective agreement, and I don't think the government wants to find itself in that position. Clearly, OPSEU, which represents the majority of people in this sector, says that nothing has been done, and although they are not averse to it, it would take some intense negotiation before they would get to that position. So, reluctantly, I cannot support this.

I would simply ask the mover, if she wishes to follow this procedure, to perhaps take the advice of Mr. Ramal and refer it to the Ministry of Labour or have discussions with OPSEU and Mr. Thomas as to how this may be accommodated and whether there is any willingness on the union's part to go this route.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we'll consider the vote. PC motion 59A: Those in favour? Those opposed? Lost.

PC motion 59B.

Ms. Sylvia Jones: I move that subsection 26(4) of the bill be struck out.

This is in reference to the ability of inspectors to enter homes and private residences without approval or a warrant. I think once again we're separating, dividing, how we view people with a developmental disability as compared to the rights that we ascribe to the rest of Ontario, and that's why we're advocating for removal of subsection 26(4).

The Chair (Mr. Shafiq Qaadri): Any comments? Seeing none, we'll proceed to the vote. Those in favour of PC motion 59B? Those opposed? Lost.

Shall section 26 carry? Carried.

I just notify the committee that the next PC notice is not a motion but a notice that they will be voting against this particular section. Of course, they are welcome to make comments.

PC motion notice 59C.

Mrs. Christine Elliott: This is the warrantless entry into homes. We certainly heard from many participants at the hearings in all locations that the residents were very concerned that there not be an entry into the home without a warrant on the basis, again, that their home is a private place and subject to the same requirements of any other search—that it not be a warrantless search, that there should be a requirement that the warrant be obtained before entry is attempted.

The Chair (Mr. Shafiq Qaadri): As I mentioned, it's not a votable item, but if there are any comments and questions—seeing none, we'll proceed to government motion 60.

Mr. Joe Dickson: I move that subsections 27(1) and (2) of the bill be struck out and the following substituted:

"Inspections without warrant

"(1) An inspector may carry out an inspection under this act in order to determine if a service agency, an application entity or a funding entity is complying with this act, the regulations and the applicable policy directives.

"Entry

"(2) Subject to subsection (3), at any reasonable time, an inspector may, without warrant and in accordance with the prescribed criteria, enter premises that are owned or operated by a service agency, an application entity or a funding entity in order to carry out an inspection."

The Chair (Mr. Shafiq Qaadri): Any further comments?

Ms. Sylvia Jones: Just a question: In accordance with the prescribed criteria, is it your intention that that would be laid out in the regulations?

Mr. Khalil Ramal: Yes. We're going to set up some standards in regulations required to visit those homes. It's not going to be on a regular basis unless some kind of incident happens or something irregular happens on a regular basis at those institutions or in the homes of those individuals, in order to protect the people with disabilities.

This is in common with the Ministry of Children and Youth Services and also the Ministry of Health and Long-Term Care in order to ensure the protection of the vulnerable people among us.

The Chair (Mr. Shafiq Qaadri): Any further comments? Those in favour of government motion 60? Those opposed? Carried.

Government motion 61.

Mr. Khalil Ramal: I move that clause 27(4)(d) of the bill be amended by striking out "services" wherever that expression appears and substituting in each case "services and supports".

It's just a housekeeping procedure.

The Chair (Mr. Shafiq Qaadri): If there are no comments, we'll proceed to the vote. Those in favour of government motion 61? Those opposed? Carried.

Shall section 27, as amended, carry? Carried.

PC motion 61A.

Mrs. Christine Elliott: I move that section 28 of the bill be struck out and the following substituted:

"Warrant

"28(1) A justice of the peace may issue a warrant authorizing an inspector named in the warrant to enter premises specified in the warrant and to exercise any of the powers mentioned in subsection (2), if the justice of the peace is satisfied on information under oath or affirmation that there are reasonable grounds to believe that a service agency or an application centre is not complying with this act, the regulations or an applicable policy directive.

"Powers

"(2) The warrant may authorize the inspector to,

"(a) require any person in the premises to produce any document, record or thing that is relevant to the inspection:

"(b) upon giving a receipt for it, remove any document, record or thing that is relevant to the inspection for the purposes of making copies or extracts;

"(c) question any person present in the premises on

matters relevant to the inspection;

- "(d) in the case of an inspection of a residence or of other premises in which services are provided to persons with developmental disabilities, examine the condition of the premises and its equipment and inquire from any person present in the premises, including residents or other persons receiving services from a service agency, about,
 - "(i) the adequacy of the staff,
- "(ii) the range of services provided in the premises, and
- "(iii) any other matter considered relevant to the provision of services to persons with developmental disabilities; and
- "(e) use any data storage, processing or retrieval device or system used in carrying on business in the premises in order to produce a document or record in readable form.

1500

"Expiry of warrant

"(3) A warrant issued under this section shall name a date on which it expires, which shall not be later than 30 days after the warrant is issued.

"Extension of time

"(4) A justice of the peace may extend the date on which a warrant issued under this section expires for an additional period of no more than 30 days, upon application without notice by the inspector named in the warrant.

"Use of force

"(5) An inspector named in a warrant issued under this section may use whatever force is necessary to execute the warrant and may call upon a police officer for assistance in executing the warrant.

"Time of execution

"(6) A warrant issued under this section may be executed only between 8 a.m. and 8 p.m., unless the warrant specifies otherwise.

"Written demand

"(7) A demand that a document, record or thing be produced for inspection must be in writing and must include a statement of the nature of the document, record or thing required.

"Assistance

"(8) An inspector may be accompanied by any person who has special, expert or professional knowledge and who may be of assistance in carrying out the inspection.

"Obligation to produce and assist

"(9) A person who is required to produce a document, record or thing under clause (2)(a) shall produce it and shall, on request by the inspector, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document or record in readable form.

"Return of removed things

"(10) An inspector who removes any document, record or thing from premises under clause (2)(b) shall,

"(a) make it available to the person from whom it was removed, on request, at a time and place convenient for both the person and the inspector; and

"(b) return it to the person being inspected within a reasonable time.

"Admissibility of copies

"(11) A copy of a document or record certified by an inspector to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value."

The purposes of these amendments, of course, are two: to square with the previous amendment requiring the warrant and to specify the conditions of the warrant.

Mr. Michael Prue: I think that this is a very valuable contribution. All of us hold our home to be our castle and I know that I, for one, would not let an officer of the law, however well intentioned, into my home unless they had a warrant. I don't think we can ask anything more or less of a person with a developmental disability. Their home is their home and it ought not to be invaded by any person, no matter how well meaning, without the sanction of law.

To allow officers or people acting in a government capacity to simply come into their home unannounced, to inspect it, to take things out, as currently exists, is wrong. We would not condone that for ourselves and we ought not to condone it for them.

I read with some interest, because I wanted to see how this was going to be phrased, and I wish to commend my colleague because there are several things in here that I was worried about. One of those was the availability of the equipment and the adequacy of staff—the range of services, the equipment, the services. This has been dealt with. The removal of objects has been dealt with. The expiry of the warrant has been dealt with. The execution, the time between 8 a.m. and 8 p.m: there is not a crime or a possibility of people getting rid of evidence—that is not likely to happen when a warrant is issued under these circumstances.

It would appear to me that as a law-abiding society and one that believes in our fundamental freedoms and our rights of privacy, we ought to extend the same to persons with developmental disabilities. Therefore, I will be voting for this motion.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we'll proceed to the consideration of PC motion 61A.

Mrs. Christine Elliott: Chair, a recorded vote.

Ayes

Elliott, Jones, Prue.

Navs

Broten, Dickson, Naqvi, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost.

PC motion 61B.

Ms. Sylvia Jones: I move that section 28 of the bill be struck out and the following substituted:

"Warrant

"28.(1) A justice of the peace may issue a warrant authorizing an inspector named in the warrant to enter premises specified in the warrant and to exercise any of the powers mentioned in subsection (2), if the justice of the peace is satisfied on information under oath or affirmation that there are reasonable grounds to believe that a service agency is not complying with this act, the regulations or an applicable policy directive.

"Powers

"(2) The warrant may authorize the inspector to,

"(a) require any person in the premises to produce any document, record or thing that is relevant to the inspection:

"(b) upon giving a receipt for it, remove any document, record or thing that is relevant to the inspection for the purposes of making copies or extracts;

"(c) question any person present in the premises on

matters relevant to the inspection;

- "(d) in the case of an inspection of a residence or of other premises in which services are provided to persons with developmental disabilities, examine the condition of the premises and its equipment and inquire from any person present in the premises, including residents or other persons receiving services from a service agency, about.
 - "(i) the adequacy of the staff.
- "(ii) the range of services provided in the premises,
- "(iii) any other matter considered relevant to the provision of services to persons with developmental disabilities; and
- "(e) use any data storage, processing or retrieval device or system used in carrying on business in the premises in order to produce a document or record in readable form.

"Expiry of warrant

"(3) A warrant issued under this section shall name a date on which it expires, which shall not be later than 30 days after the warrant is issued.

"Extension of time

"(4) A justice of the peace may extend the date on which a warrant issued under this section expires for an additional period of no more than 30 days, upon application without notice by the inspector named in the warrant.

"Use of force

"(5) An inspector named in a warrant issued under this section may use whatever force is necessary to execute the warrant and may call upon a police officer for assistance in executing the warrant.

"Time of execution

"(6) A warrant issued under this section may be executed only between 8 a.m. and 8 p.m., unless the warrant specifies otherwise.

"Written demand

"(7) A demand that a document, record or thing be produced for inspection must be in writing and must include a statement of the nature of the document, record or thing required.

"Assistance

"(8) An inspector may be accompanied by any person who has special, expert or professional knowledge and who may be of assistance in carrying out the inspection.

"Obligation to produce and assist

"(9) A person who is required to produce a document, record or thing under clause (2)(a) shall produce it and shall, on request by the inspector, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document or record in readable

"Return of removed things

"(10) An inspector who removes any document, record or thing from premises under clause (2)(b) shall,

"(a) make it available to the person from whom it was removed, on request, at a time and place convenient for both the person and the inspector; and

"(b) return it to the person being inspected within a reasonable time.

"Admissibility of copies

"(11) A copy of a document or record certified by an inspector to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value."

And I would again ask for a recorded vote.

The Chair (Mr. Shafiq Qaadri): Any further comments? Mr. Ramal, then Mr. Prue.

Mr. Khalil Ramal: Of course, we're not going to support this one, for the protection of people with disabilities from a situation that could pose danger to them and their health and safety. And this procedure is being practised on a regular basis by the ministry for children and also the Ministry of Health and Long-Term Care. So therefore I think we're not supporting this motion.

Mr. Michael Prue: I'm trying to see the differences between the two, and the only difference that I can see, and correct me if I'm wrong, is that the 61A, which was read earlier, refers to "a service agency or an application centre" and B refers only to "a service agency." Is that the only difference, those three words?

Ms. Sylvia Jones: That is the only difference.

Mr. Michael Prue: Can you then explain to me why you've left out "an application centre" in this one? Why did you do this? I don't understand that rationale.

Mrs. Christine Elliott: Because what you're really getting at is if something's going on in one of the homes or where the person is living, it might be a problem. which wouldn't necessarily include the application centre; it's more the service provider that you're looking at. So the thought was if the previous one was seen to be unduly restrictive, this one might be more palatable because it's restricted to just the service provider, rather than the application centre as well. Because in our view. in our way of seeing things, the application centre or the application entity would just be the application that's filed on behalf of the person. What you're really looking at is more about physical trouble than documentary issues, so it's more relevant for the service provider. You could catch both of them, but the thought was that if the one wasn't acceptable, as casting too wide a net, then to restrict it a little bit more might be more palatable. But apparently neither one is.

1510

The Chair (Mr. Shafiq Qaadri): We'll proceed to the consideration of—recorded vote—PC motion 61B.

Aves

Elliott, Jones, Prue.

Nays

Broten, Dickson, Nagvi, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost.

Shall section 28 carry? Carried.

PC motion 61C.

Mrs. Christine Elliott: I move that subsection 29(1) of the bill be amended by striking out "or an application centre".

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of PC motion 61C? Those opposed? Lost.

Government motion 62.

Mr. Khalil Ramal: I move that subsection 29(1) of the bill be amended by striking out "or an application centre" and substituting "an application entity or a funding entity".

This is part of the clarification, which we introduced at the beginning of the bill, of the difference between an application centre—replacing it with two entities, one for funding and one for processing information.

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 62? Those opposed? Carried.

PC motion 62A.

Ms. Sylvia Jones: I move that subsections 29(2), (3), (4) and (6) of the bill be amended by striking out "or application centre" wherever it occurs.

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of PC motion 62A? Those opposed, if any?

Lost.

Government motion 63.

Mr. Yasir Naqvi: I move that subsection 29(2) of the bill be amended by striking out "or application centre" in the portion before paragraph 1 and substituting "application entity or funding entity".

It's a housekeeping amendment.

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 63? Opposed? Carried.

Government motion 64.

Mr. Joe Dickson: I move that subsection 29(3) of the bill be struck out and the following substituted:

"Notice of proposed order

"(3) Before making an order under subsection (2) against a service agency, an application entity or a funding entity, a director shall give notice of the proposed order, together with the reasons for it, to the service agency, application entity or funding entity, as the case may be."

This is more or less a housekeeping item.

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 64? Those opposed? Carried.

Government motion 65.

Ms. Laurel C. Broten: I move that subsection 29(4) of the bill be amended by striking out "or application centre" and substituting "application entity or funding entity".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 65? Those opposed? Carried.

Motion 66.

Mr. Khalil Ramal: I move that subsection 29(6) of the bill be amended by striking out "or application centre" and substituting "an application entity or a funding entity".

The Chair (Mr. Shafiq Qaadri): Those in favour of

government motion 66? Those opposed? Carried.

NDP motion 67.

Mr. Michael Prue: I move that clause 29(7)(b) of the bill be struck out and the following substituted:

"(b) in the case of an order made against an application centre, terminate the funding agreement made under subsection 8(5)."

The rationale for that—I guess it just stands to reason. What it says here is if the application centre has done something illegal, the termination of the funding should take place.

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of NDP motion 67? Opposed? Lost.

PC motion 67A.

Mrs. Christine Elliott: I move that subsection 29(7) of the bill be struck out and the following substituted:

"Failure to comply

"(7) If a service agency fails to comply with an order under subsection (2) within the time specified in it, the

minister may terminate a funding agreement made under section 10."

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of PC motion 67A? Those opposed? Defeated.

Government motion 68.

Mr. Yasir Naqvi: I move that subsection 29(7) of the bill be struck out and the following substituted:

"Failure to comply

"(7) If a service agency, an application entity or a funding entity fails to comply with an order under subsection (2) within the time specified in it, the minister may,

"(a) in the case of an order made against a service agency, terminate a funding agreement made under sec-

tion 10; and

"(b) in the case of an order made against an application entity or a funding entity, revoke the designation under section 8 of the application entity or funding entity, as the case may be, and terminate the funding agreement made under subsection 8(9)."

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 68? Those opposed? Carried.

Shall section 29, as amended, carry? Carried.

NDP motion 69.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"Application to third party providers

"29.1 Sections 27 to 29 apply, with necessary modifications, to a person or entity from whom services are purchased with the funds provided under a direct funding agreement."

I would seek the indulgence of the Chair to ask the legislative counsel—I know why we asked, but I'm not sure that this does exactly what we were intending to do—if he could explain how it ended up in this form.

Mr. Michael Wood: I think I'm going to have to take some time to consult on this, because I wasn't the one

personally involved with this.

Mr. Michael Prue: I know we had a number of motions we wanted to put forward, but I am unaware as to what this in fact would actually do. I know what we were attempting to do, but I'm not sure that this is going to accomplish it. I don't want to speak in favour or ask people to vote for it when I'm not even necessarily convinced I will myself. If you could tell me what this is intended to do, I would appreciate that. If we could, with indulgence, Mr. Chair, hold this off—

The Chair (Mr. Shafiq Qaadri): I think Mr. Wood has declared that he would like more time, but you are

free to withdraw, if you wish.

Mr. Michael Prue: I'm not sure that I want to withdraw. I don't have any notes here to explain. I know what was being attempted. It may in fact be a good motion. If we could just hold it down until tomorrow morning, I would deal with it first thing and come back to it. I'm not trying to be dilatory or anything.

The Chair (Mr. Shafiq Qaadri): Assuming we're

here tomorrow morning.

Mr. Michael Prue: We will be here, I can assure you, Mr. Chair. If you think we can finish before 5 o'clock, you're—

Mr. Khalil Ramal: Mr. Chair, can we stand it down until the end? It might give Mr. Prue a chance to—

The Chair (Mr. Shafiq Qaadri): Fair enough. If it's the committee's will, we'll defer this to the end of our deliberations, whenever that is, whether it's today or tomorrow.

Mr. Michael Prue: Sure, whenever.

The Chair (Mr. Shafiq Qaadri): Fine. So it's stood down. Fair enough. We'll now move, then, to PC motion 69A.

Ms. Sylvia Jones: I move that subsection 30(1) of the bill be struck out and the following substituted:

"Immediate takeovers

"30(1) Upon notice to a service agency, the minister may, based on grounds set out in subsection (2), appoint a person to take over and manage the affairs of the service agency."

We are attempting to protect the individuals already receiving service by suggesting that, if deemed necessary, the minister take over and manage the affairs.

The Chair (Mr. Shafiq Qaadri): Comments? Seeing none, those in favour of PC motion 69A? Opposed? It's lost.

PC motion 69B.

Mrs. Christine Elliott: I move that clause 30(2)(a) of the bill be amended by striking out "or application centre".

This was done to reflect our view that the application centre would be a part of the ministry in any event, and therefore there wouldn't be any funds given directly to the application centre; they would simply go to the service provider.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 69B? Those opposed? Defeated.

PC motion 69C.

Ms. Sylvia Jones: I move that clause 30(2)(b) of the bill be amended by striking out "in the case of a service agency," at the beginning.

The Chair (Mr. Shafiq Qaadri): Any comments? Those in favour of PC motion 69C? Those opposed, if any? Defeated.

Government motion 70.

1520

Mr. Yasir Naqvi: I move that subsections 30(1) and (2) of the bill be struck out and the following substituted:

"Immediate takeovers

"(1) Upon notice to a service agency, an application entity or a funding entity, the minister may, based on grounds set out in subsection (2), appoint a person to take over and manage the affairs of the service agency, application entity or funding entity, as the case may be, only with respect to services and supports provided under this act or for which funding is provided under this act.

"Grounds

"(2) The minister may make an order under this section if there are reasonable grounds to believe that,

"(a) funds provided by the minister under this act to the service agency, application entity or funding entity have been misappropriated or there has been gross negligence in the management of those funds; or

"(b) in the case of a service agency, the manner in which services and supports are provided by the agency constitutes, in the minister's opinion, an immediate threat to the health, safety or well-being of persons with developmental disabilities."

Ms. Sylvia Jones: I wonder if someone could clarify for me why you were unwilling to support our PC motion 69A, which references the immediate takeovers, if we're now supposed to vote on your government motion. Or is that just because you guys have the majority?

Mr. Khalil Ramal: No, it's not because of that. As you know, the government has no intention to be in the business of running facilities, organizations or communities. We believe strongly in the people who manage those organizations across the province of Ontario. But when it comes to dangers to vulnerable people, I think the minister has to interfere by stopping the funding in the beginning and not dissolving the organization, because we have no authority over organizations but we have the authority to continue funding those organizations. That's the difference between yours and ours. We're talking about only stopping the funding. If that does not work, then we'll go to the second level.

The Chair (Mr. Shafiq Qaadri): Mr. Wood.

Mr. Michael Wood: I just wanted to point out another thing the government motion does that the opposition motion didn't. Our previous motions had split the functions between application centres, between the new application entities and funding entities, so this government motion takes into consideration that addition of the two entities taking the place of the one former entity.

Ms. Sylvia Jones: I appreciate that clarification, and if we'd had an opportunity to consult prior to going over the clause-by-clause, which is what we had asked for, then some of our amendments would have shown the separation that you've done with the entities; so thank you.

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 70? Those opposed? Motion 70 carried.

PC motion 70A.

Mrs. Christine Elliott: I move that subsection 30(4) of the bill be amended by striking out "or application centre".

Again, this is reflecting the fact that the application centre in our view would be the government body and therefore wouldn't be the subject of a government order.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 70A? Opposed? Lost.

Government motion 71.

Mr. Joe Dickson: I move that subsection 30(4) of the bill be amended by striking out "or application centre" and substituting "an application entity or a funding entity".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 71? Those opposed? Carried.

Shall section 30, as amended, carry? Carried.

PC motion 71A.

Ms. Sylvia Jones: I move that section 31 of the bill be struck out and the following substituted:

"Powers of manager on takeover

"31(1) If a manager is appointed under section 30 to take over and manage the affairs of a service agency, the manager has all the powers of the board of directors of the agency.

"Occupation of premises

"(2) Without limiting the generality of subsection (1), the manager appointed under section 30 may,

"(a) despite sections 25 and 39 of the Expropriations Act, immediately occupy, operate and manage any premises occupied or used by the service agency in the course of operating their business; and

"(b) apply without notice to the Superior Court of Justice for an order directing the sheriff to assist the manager in occupying the premises.

"Maximum period

"(3) The manager shall not occupy, operate or manage premises occupied or used by the service agency for a period exceeding two years without the consent of the service agency, but the Lieutenant Governor in Council may from time to time authorize an extension of the period."

The Chair (Mr. Shafiq Qaadri): Any comments?

Mr. Yasir Naqvi: I'm just wondering if Ms. Jones could explain the difference between the amendment and the provision in Bill 77.

Ms. Sylvia Jones: What we're trying to do is protect the existing clients who are under the service, so we're saying that if they're in existing service, we're going to ensure that the care can be immediately taken over by the ministry, and then the extension of the two years is to allow any subsequent providers or managers to continue.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the vote. Those in favour of PC motion 71A? Those opposed? Lost.

Government motion 72.

Ms. Laurel C. Broten: I move that section 31 of the bill be struck out and the following substituted:

"Powers of manager on takeover

"31(1) If a manager is appointed under section 30 to take over and manage the affairs of a service agency, an application entity or a funding entity with respect to services and supports provided under this act or for which funding is provided under this act, the manager has all the powers of the board of directors of the agency, application entity or funding entity, as the case may be, with respect to those services and supports or with respect to that finding, as the case may be.

"Occupation of premises

"(2) Without limiting the generality of subsection (1), the manager appointed under section 30 may,

"(a) despite sections 25 and 39 of the Expropriations Act, immediately occupy, operate and manage any

premises occupied or used by the service agency, application entity or funding entity, as the case may be, in the course of operating their business with respect to the services and supports mentioned in subsection (1); and

"(b) apply without notice to the Superior Court of Justice for an order directing the sheriff to assist the

manager in occupying the premises.

"Maximum period

"(3) The manager shall not occupy, operate or manage premises occupied or used by the service agency, application entity or funding entity, as the case may be, for a period exceeding two years without the consent of the service agency, application entity or funding entity, but the Lieutenant Governor in Council may from time to time authorize an extension of the period."

This motion follows from amendments previously put forward with respect to takeover powers and clarifies the ministry's ability to manage a service agency, application

entity or funding entity.

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 72? Those opposed? Carried.

Shall section 31, as amended, carry? Carried.

PC motion 72A.

Mrs. Christine Elliott: I move that subsection 32(3) of the bill be amended by striking out "or application centre".

For the reasons noted with respect to our earlier motions.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 72A? Those opposed? Lost.

Government motion 73.

Mr. Khalil Ramal: I move that subsection 32(3) of the bill be amended by striking out "or application centre" and substituting "application entity or funding entity".

This is just a housekeeping matter.

The Chair (Mr. Shafiq Qaadri): If there are no comments, we'll proceed to consideration of government motion 73. Those in favour? Those opposed? Motion 73 is carried.

Shall section 32, as amended, carry? Carried.

PC motion 73A.

Ms. Sylvia Jones: I move that subsection 33(1) of the bill be amended by striking out "or application centre".

As a point of clarification, in case anybody hasn't figured it out, we don't like the application centres.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 73A? Those opposed? Defeated.

Government motion 74.

Mr. Yasir Naqvi: I move that subsection 33(1) of the bill be amended by striking out "or application centre" and substituting "an application entity or a funding entity".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 74? Those opposed? Carried.

PC motion 74A.

Mrs. Christine Elliott: I move that clause 33(2)(b) of the bill be struck out and the following substituted:

"(b) the manager and the service agency shall not be treated as one employer under section 4 of the Employment Standards Act, 2000."

The Chair (Mr. Shafiq Qaadri): Are there any comments?

Mr. Michael Prue: Just a question: It is highly unusual that a manager of an agency or manager of a company is treated separately and apart from the company. What is this intended to do?

1530

Mrs. Christine Elliott: Just to make sure that it is treated separately, that it should—

Mr. Michael Prue: Why?

Interjection.

Mrs. Christine Elliott: I'd need some clarification on that one too, I'd have to say.

Mr. Michael Wood: Actually, when I look at this opposition motion, I see that it picks up most of the wording of the present clause in the bill. The only difference appears to be striking out the reference to application centres.

Ms. Sylvia Jones: Yes, yes.

Mrs. Christine Elliott: Over to you guys.

Interjection.

Ms. Sylvia Jones: Because we don't like application centres.

Mr. Michael Prue: Okay, if that's what it is, it's nothing to do—

Mrs. Christine Elliott: That is—yes.

Mr. Michael Prue: It's no change to any act; it's just the application centre.

Ms. Sylvia Jones: No, just the removal of the application centre.

Mr. Michael Prue: All right. Okay.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of PC motion 74A? Those opposed? Defeated.

Government motion 75.

Mr. Joe Dickson: I move that clause 33(2)(b) of the bill be amended by striking out "either the service agency or the application centre, as the case may be" and substituting "the applicable one of the service agency, application entity or funding entity."

The Chair (Mr. Shafiq Qaadri): Comments? Those in favour of government motion 75? Those opposed? Carried.

Shall section 33, as amended, carry? Carried.

Government motion 76.

Mr. Khalil Ramal: I move that subsection 34(1) of the bill be amended by striking out "services" wherever that expression appears and substituting in each case "services and supports."

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 76? Those opposed? Carried.

Government motion 77.

Mr. Yasir Naqvi: I move that paragraph 4 of subsection 34(1) of the bill be amended by striking out "and application centres" and substituting "application entities and funding entities."

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 77? Those opposed? Carried.

Government motion 78.

Mr. Joe Dickson: I move that subsection 34(4) of the bill be amended by striking out "an application centre" and substituting "an application entity or a funding entity."

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of government motion 78? Those opposed? Carried.

Shall section 34, as amended, carry? Carried.

PC motion 78A.

Ms. Sylvia Jones: I move that clause 35(1)(a) of the bill be amended by striking out "section 27" at the end and substituting "section 28."

I would look to leg counsel for clarification on whether this motion is in order because it is related to the warrantless entry.

Mr. Michael Wood: I'm sorry-

The Chair (Mr. Shafiq Qaadri): Rephrase, Ms. Jones.

Mr. Michael Wood: Could you repeat the question?

Ms. Sylvia Jones: I move that clause 35(1)(a) of the bill be amended by striking out "section 27" at the end and substituting "section 28."

I'm looking for your clarification whether this motion is still in order because they've already struck down our removal of warrantless entry.

Mr. Michael Wood: May I just check—we still do have a section 28 in the bill, right?

Interjection: Yes.

Mr. Michael Wood: Then this motion would be in order, but it—

Ms. Sylvia Jones: But because the government members have already said that they agree with warrantless entry, I think I know what's going to happen with this one.

Mr. Michael Prue: You know what's going to happen, but it's still—

Ms. Sylvia Jones: So it's still in—okay, thank you.

Mr. Michael Wood: This is a motion which is in a section which creates offences.

Ms. Sylvia Jones: Right.

The Chair (Mr. Shafiq Qaadri): Therefore, the motion is in order, and I invite comments. Seeing none, I'll proceed to the vote. Those in favour of PC motion 78A? Those opposed? PC motion 78A defeated.

NDP motion 79.

Mr. Michael Prue: I move that clause 35(1)(c) of the bill be amended by striking out "subsection 8(11) or (12)" and substituting "subsection 8(6) or (7)."

This is a consequential motion relating back to application centres. I'm not sure of the intent, but I think that it was intended to go back to 8(6) and (7), which was not carried. It's still in order, and I ask that it be voted on.

The Chair (Mr. Shafiq Qaadri): Any further comments on NDP motion 79? Seeing none, those in favour of—did you want a recorded vote for this?

Mr. Michael Prue: No.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 79? Those opposed? Defeated.

PC motion 79A.

Mrs. Christine Elliott: I move that clause 35(1)(c) of the bill be amended by striking out "subsection 8(11) or (12)" and substituting "subsection 8(4)".

We're getting into these very technical amendments now, but again, this one relates to our dislike of the use of application centres.

The Chair (Mr. Shafiq Qaadri): Any further comments? Those in favour of PC motion 79A? Those opposed? Defeated.

Shall section 35 carry? Carried.

NDP motion 80.

Mr. Michael Prue: I move that clause 36(c) of the bill be amended by striking out "subsection 8(12)" and substituting "subsection 8(7)".

Again, it has to deal with earlier motions on application centres.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments? Those in favour of NDP motion 80? Those opposed? Defeated.

PC motion 80A.

Ms. Sylvia Jones: I move that clause 36(c) of the bill be amended by striking out "subsection 8(12)" and substituting "subsection 8(4)".

The Chair (Mr. Shafiq Qaadri): Any further comments? Those in favour of PC motion 80A? Those opposed? Defeated.

Government motion 81.

Mr. Khalil Ramal: I move that clauses 36(b), (c) and (d) of the bill be struck out and the following substituted:

"(b) governing quality assurance measures applicable to application entities, funding entities and service agencies and requiring compliance with such measures;

"(c) governing reports to be made to the minister by application entities and funding entities for the purposes of subsection 8(12) and by service agencies for the purposes of section 25;

"(d) respecting the financial records and other records to be kept by application entities, funding entities and service agencies and requiring such records to be made available in the prescribed manner."

This one is to clarify the position of those entities and also to keep them accountable and transparent—reporting and keeping records—in order to be available any time upon request to the ministry.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, those in favour of government motion 81? Those opposed? Carried.

Shall section 36, as amended, carry? Carried.

NDP motion 82.

Mr. Michael Prue: I move that clause 37(e) of the bill be struck out and the following substituted:

"(e) governing application centres, prescribing the powers and duties of application centres and respecting funding agreements made between the minister and application centre under subsection 8(5)."

Again, this is a consequential motion dating back to application centres.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there further comments? Seeing none, those in favour of NDP motion 82? Those opposed? I declare it lost.

PC motion 82A.

Mrs. Christine Elliott: I move that clause 37(e) of the bill be struck out and the following substituted:

"(e) governing application centres, including prescribing the powers and duties of application centres and respecting the geographic area for which application centres are responsible."

This relates to the previous motion regarding application centres and their set-up.

The Chair (Mr. Shafiq Qaadri): Thank you, Mrs. Elliott. Any further comments? Seeing none, those in favour of PC motion 82A? Those opposed? I declare it lost.

PC motion 82B.

Ms. Sylvia Jones: I move that clause 37(g) of the bill be amended by striking out "between an application centre" and substituting "between an application centre, acting on behalf of the minister,"

We're attempting with this motion to not let the minister and the government of the day off the hook—that they continue to be responsible for the care and responsible for the developmental disabilities sector.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Are there any comments? Those in favour of PC motion 82B? Those opposed? I declare it lost.

Government motion 83.

Mr. Khalil Ramal: I move that clauses 37(c), (e), (g), (h), (k), (i) and (m) of the bill be struck out and the following substituted:

"(c) prescribing additional services and supports to which this act applies for the purposes of paragraph 7 of subsection 4(1) and defining 'social and recreational activities', 'work activities' and 'volunteer activities' for the purposes of the definition of 'community participation services and supports' in subsection 4(2) and defining 'intensive support' for the purposes of the definition of 'intensive support residence' in subsection 4(2);

"(e) governing application entities and funding entities, including the designation of entities, other than service agencies or corporations, as application entities or funding entities, prescribing the powers and duties of application entities and funding entities and respecting funding agreements made between the minister and application entities or funding entities under subsection 8(9);

"(g) governing direct funding and direct funding agreements made under section 11 between an application entity and either a person with a developmental disability or another person acting on that person's behalf;

"(h) governing applications for services and supports or for funding made by or on behalf of persons with developmental disabilities under part V, including determinations of eligibility for such services and supports and funding and prioritization for services and supports and funding;...

"(k) governing service agencies, including their operation, the composition of their board of directors, if any, and the qualifications of their employees or of any other persons who provide services and supports to, or for the benefit of, persons with developmental disabilities;

"(i) governing the provision of services and supports by service agencies to, or for the benefit of, persons with developmental disabilities, including the provision of

residential services and supports;

"(m) governing residences for persons with developmental disabilities in which residential services and supports are provided and prescribing additional types of residences for the purposes of the definition of 'residential services and supports' in subsection 4(2);"

It's a housekeeping matter. It just describes the role and the direction of the government entities, which have been described over and over in this bill.

1540

The Chair (Mr. Shafiq Qaadri): Are there any comments?

Mr. Michael Prue: My only comment for the record is—it's difficult reading this legal stuff: you referred to the clause in the penultimate paragraph as (i) and it is in fact (l). I just want to make sure that the record is clear, that the bill has not been changed. I'm trying to be a good guy.

The Chair (Mr. Shafiq Qaadri): I thank you for that. I now invite consideration of government motion 83. Those in favour? Those opposed? Carried.

Government motion 84.

Mr. Yasir Naqvi: I move that clause 37(n) of the bill be amended by striking out "services" and substituting "services and supports".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 84? Those opposed? Carried.

Government motion 85.

Mr. Joe Dickson: I move that clauses 37(o) and (p), as in Prue, of the bill be amended by striking out "application centres" wherever that expression appears and substituting in each case "application entities, funding entities".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 85? Those opposed? Carried.

Shall section 37, as amended, carry? Carried.

Are you ready to proceed, Mr. Prue?

Mr. Michael Prue: I am indeed.

The Chair (Mr. Shafiq Qaadri): NDP motion 86.

Mr. Michael Prue: This was given to me by legislative counsel. It is a slightly amended version. I'll explain the amendment to what you may have there.

The amended version 2 that he has given to me reads:

"I move that the bill be amended by adding the following section:

"Draft regulations made public

"37.1(1) Before the minister makes a regulation under section 36 or the Lieutenant Governor in Council makes a regulation under section 37, a draft of the regulation

shall be made available to the public by posting it on a government internet site and by such other means as the minister considers advisable.

"Opportunity for comments

"(2) Within 45 days after a draft regulation is made available to the public in accordance with subsection (1) or such other time that the minister or the Lieutenant Governor in Council, as the case may be, specifies, any person may submit comments with respect to the draft regulation to the minister.

"Changes to draft regulation

"(3) After the time for comments under subsection (2) has expired, the minister or the Lieutenant Governor in Council, as the case may be, may, without further notice, make the regulation with such changes as the minister or the Lieutenant Governor in Council considers advisable."

Just for the record, so that people may follow along with this, in the paragraph that starts, "Draft regulations made public," in the third line the words "for a period of at least 45 days" have been deleted in the newer version. And in the paragraph starting, "Opportunity for comments," the following words have been included: "or such other time that the minister or the Lieutenant Governor in Council, as the case may be, specifies...."

The rationale for the changes, as explained to me by the legislative counsel, was that the timing period for at least 45 days is in conflict with some existing law where that cannot be specified; it's longer.

Mr. Michael Wood: No, it's rather that we've removed the time element from subsection (1) and put it into subsection (2), and if more than 45 days are going to be allowed for the posting, then people would have that full period to submit comments.

Mr. Michael Prue: Fine, so it's a positive thing.

The reason we have submitted this particular amendment is to deal with the very thorny and contentious and always ongoing issue of regulations. We think that this bill is a complex one. We know that many people came forward to us and were unsure how the regulations are going to affect the bill. The bill is complex enough as it is, but the regulations will make it much more difficult. Many people and many groups in the industry have asked that they have an opportunity to at least look at the regulations to make sure that they are encapsulating and carrying the intent of the bill. They are asking, for those portions of the act that are shaped through the regulations, that there be public consultations that would allow for fairness, clarity and valuable input from the stakeholders for whom the success of this act matters a lot.

We're not trying to slow anything down. We are simply stating that, before the government proceeds with the regulations, they publish them, that they allow the opportunity for the public to comment on those regulations, and then, at the end of the prescribed period, as set out by the government, the regulations can come into force. We do not want to see the regulations come in and have a detrimental effect to already vulnerable people. We simply ask that you do the same for the regulations as

you did for the act: that is, to conduct whatever consultations you deem appropriate and necessary. We ask that you support this amendment 86.

The Chair (Mr. Shafiq Qaadri): Further comments?

Ms. Sylvia Jones: Just a question. In your amendment, if I'm reading it accurately, there is an opportunity for individuals to comment on the draft regulations, but there would be no obligation on behalf of the minister to give their feedback or their comments?

Mr. Michael Prue: I don't think we can require the minister to do so, in law, but what we are trying to do is to allow the public to have that input on the regulation that will make sure that the regulation is meeting what the public expects this bill to do. It's difficult legislation, it's contentious legislation, and the people who will be affected by the legislation are among our most vulnerable. And almost all groups that have come forward have asked for an opportunity to comment on the regulation. I think their request is a good one, and we're simply trying to form it in a way that we think the government may pass it, to allow that input to be received for the minister to take whatever appropriate action she deems appropriate.

1550

Ms. Sylvia Jones: I don't disagree that it is critical that this sector and individuals involved have the opportunity to review the draft regulations. I just see it as somewhat lopsided.

Mr. Michael Prue: We are hoping that this will be passed. Politics sometimes is the art of the possible, and we think that this possibly may be approved by the members opposite. If we made it more to the way that you and I might like it, that would not happen.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll now consider NDP motion 86. Those in favour? Those opposed? I congratulate you, Mr. Prue: NDP motion 86 is carried.

Government motion 87.

Mr. Khalil Ramal: I move that section 38 of the bill be amended by striking out "application centres" and substituting "application entities, funding entities".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 87? Those opposed? Carried.

Shall section 38, as amended, carry? Carried.

There are no amendments to section 39. We'll proceed immediately to consideration. Shall section 39 carry? Carried.

Government motion 88.

Mr. Yasir Naqvi: I move that clauses 40(1)(a) and (b) of the bill be struck out and the following substituted:

"(a) is deemed to be eligible for services and supports and funding under this act for the purposes of section 14; and

"(b) shall continue to receive, or benefit from, those same services until such time as an application entity for the geographic area in which the person resides conducts an assessment in accordance with subsection (2)."

Ms. Sylvia Jones: With this amendment, you are assuming that an additional assessment will have to be

done when an individual moves to another part of the province?

Mr. Khalil Ramal: It might be required because this is important to—it depends on the needs of the person and the service, because as you know, the service is not the same across the province of Ontario and the availability of the service is not the same. So, yes.

Ms. Sylvia Jones: The way it's written, it doesn't say "may need"; it says "until such time as."

Mr. Khalil Ramal: Yes, because we believe strongly that people change, and therefore the new assessment is required—

Ms. Sylvia Jones: So the services that I need in Toronto aren't necessarily the services I need in Ottawa?

Mr. Khalil Ramal: No, I'm not saying that. I'm talking about the availability of the service. It might not be available in Ottawa; it may be available in Toronto or in Timmins or Sudbury. Therefore the assessment depends on the needs and also the availability of the service.

Ms. Sylvia Jones: So is it both an assessment of the individual and an assessment of the services available, or just an assessment of the services available?

Mr. Khalil Ramal: We're talking here about—give me a second.

Yes, sometimes the service will be grandfathered; it doesn't matter where you move. It's just to make it open, not make it fixed. This will make it flexible, with options for the ability to reassess. But most of the time, the service will be grandfathered when you move from an area to a different area.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, those in favour of government motion 88? Those opposed? Carried.

PC motion 88A.

Mr. Khalil Ramal: Subsection 40(2) of the amendments? I'm not sure they've been distributed among all of the members.

The Chair (Mr. Shafiq Qaadri): Which motion are you referring to, Mr. Ramal?

Mr. Yasir Naqvi: Motion 88A.

Mr. Khalil Ramal: Yes.

The Chair (Mr. Shafiq Qaadri): PC motion 88A. You have the floor.

Mrs. Christine Elliott: I move that clauses 40(2)(a) and (b) of the bill be struck out and the following substituted:

"(a) refer the person to a planner in accordance with section 17.1 for the purposes of developing a life plan in accordance with section 18; and

"(b) upon receipt of a written life plan from the planner, prioritize services and funding for the person in accordance with section 19."

This relates back to our previous comments regarding the need for a planner to be involved in order to develop a comprehensive plan for the person.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote. Those in favour of PC motion 88A? Those opposed? Motion defeated.

NDP motion 89.

Mr. Michael Prue: I move that section 40 of the bill be amended by adding the following subsection:

'Same

"(2.1) A reassessment conducted under subsection (2) must not result in a reduction in the level of services that the person described in subsection (1) was receiving before the day this section comes into force."

We are adding this subsection to ensure that no person receiving service as of the day the section comes into force will have service levels decreased as a result of the assessment. The ministry has been assuring parents that support and/or services currently provided to their children will not be reduced. However, the current wording of the bill is that they will continue "until such time as the application centre for the geographic area in which the person resides conducts a reassessment..." This wording leaves open the possibility of service rollbacks. Persons currently receiving service need a guarantee that those services and/or supports will continue. I think the government has been fair and clear in its intent not to roll back services. However, the bill itself is open and allows for rollbacks of services when a reassessment takes place. We are merely attempting to add this subsection to assuage the fears of those parents and those groups who fear that this new bill may result in reduced services for themselves and/or their loved ones.

The Chair (Mr. Shafiq Qaadri): Are there any comments, questions or queries? If not, we will then proceed to the vote. Those in favour of NDP motion 89? Those opposed? NDP motion 89 defeated.

Government motion 90.

Mr. Joe Dickson: I move subsection 40(2)—I just need clarification on one word. Is that "in" or "of"?

Interjection.

Mr. Joe Dickson: —in the bill be struck out and the following substituted:

"Assessment

"(2) An application entity for the geographic area in which the person with a developmental disability resides shall conduct an assessment of needs of the person in accordance with section 17, subject to such procedures or rules as may be prescribed or specified in a policy directive.

"Service and support profile

"(2.1) A funding entity for the geographic area in which the person with a developmental disability resides shall develop a service and support profile for the person in accordance with section 18, subject to such procedures or rules as may be prescribed or specified in a policy directive."

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Ms. Sylvia Jones: Just a quick question: Based on the fact that your version 3 and version 4 moved, under "service and support profile," "a funding entity for the geographic area," away from "a funding entity in the geographic area," is it your intent that you would see

funding entities manage and operate outside of their geographic regions?

Mr. Khalil Ramal: It's a big possibility, as we mentioned, so it may be grandfathered. If the service and the assessment will be the same, there's nothing changed. The whole documentation and assessment will be the same. We don't see any difference in the continuation of the services. I'll ask Colette to clarify for you more.

Ms. Colette Kent: Colette Kent, director of policy. No, the intent would be that the funding entity is working within the geographic area. There's no intent that a funding entity would be making funding decisions outside the geographic area that they're in.

Ms. Sylvia Jones: So why did we have to get an amended version to move "a funding entity in the geographic area" to "a funding area entity for the geographic

area"?

Ms. Colette Kent: I believe it was seen to be technically more correct. Isn't that the case?

Mr. Michael Wood: It's to be consistent with other provisions in the bill. Every time we refer to a geographic area in relation to an application entity or funding entity, we say "for," so we want to be consistent.

Ms. Sylvia Jones: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): If there are no further comments or questions, we'll proceed to consideration of government motion 90R, "R" for "replacement." Those in favour? Those opposed? Government motion 90R carried.

Government motion 91.

1600

Mr. Khalil Ramal: I move that subsection 40(3) of the bill be amended by striking out "services" and substituting "services and supports".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 91? Those opposed? Carried.

Shall section 40, as amended, carry? Carried.

Government motion 92.

Mr. Yasir Naqvi: I move that clauses 41(1)(a) and (b) of the bill be struck out and the following substituted:

"(a) before the day this section comes into force, an application for services was submitted by or on behalf of the person with a developmental disability who is at least 18 years of age to a person who provided services in accordance with an agreement made under subsection 2(2) of the Developmental Services Act; and

"(b) on the day this section comes into force, the person with a developmental disability who is at least 18 years of age has not begun to receive, or benefit from, the

services."

The Chair (Mr. Shafiq Qaadri): Mr. Naqvi, any further comments? Seeing none, those in favour of government motion 92? Those opposed? Motion 92 is carried.

Government motion 93.

Mr. Joe Dickson: I move that subsection 41(2) of the bill be amended by striking out "services" in the portion before clause (a) and substituting "services and supports".

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of government motion 93? Those opposed? Carried.

Government motion 94.

Ms. Laurel C. Broten: I move that clause 41(2)(b) of the bill be amended by striking out "the application centre" and substituting "an application entity".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 94? Those opposed? Carried.

PC motion 94A.

Mrs. Christine Elliott: I move that clauses 41(3)(a) and (b) of the bill be struck out and the following substituted:

"(a) refer the person to a planner in accordance with section 17.1 for the purposes of developing a life plan in accordance with section 18; and

"(b) upon receipt of a written life plan from the planner, prioritize services and funding for the person in accordance with section 19."

This is for the reasons previously stated with respect to the need for a planning entity to be involved.

The Chair (Mr. Shafiq Qaadri): Are there further comments? None? Those in favour of PC motion 94A? Those opposed? Defeated.

Government motion 95.

Mr. Khalil Ramal: I move that subsection 41(3) of the bill be struck out and the following substituted:

"Assessment

"(3) An application entity in the geographic area in which the person with a developmental disability resides shall conduct an assessment of needs of the person in accordance with section 17, subject to such procedures or rules as may be prescribed or specified in a policy directive.

"Procedure for funding entity

"(3.1) A funding entity in the geographic area in which the person with a developmental disability resides shall, subject to such procedures or rules as may be prescribed or specified in a policy directive,

(a) develop a service and support profile for the person in accordance with section 18; and

(b) prioritize services and supports and—

The Chair (Mr. Shafiq Qaadri): Mr. Ramal, just with respect, apparently there is a 95R replacement motion, and I would welcome you to please read into the record the most up-to-date copy, hot off the presses and in my hand.

Mr. Khalil Ramal: Okay, no problem.

Interjection.

Mr. Khalil Ramal: Yes, I have it; I didn't see the "R."

The Chair (Mr. Shafiq Qaadri): Please begin again with government motion 95R.

Mr. Khalil Ramal: No problem, Mr. Chair.

I move that subsection 41(3) of the bill be struck out and the following substituted:

"Assessment

"(3) An application entity for the geographic area in which the person with a developmental disability resides

shall conduct an assessment of needs of the person in accordance with section 17, subject to such procedures or rules as may be prescribed or specified in a policy directive.

"Procedure for funding entity

"(3.1) A funding entity for the geographic area in which the person with a developmental disability resides shall, subject to such procedures or rules as may be prescribed or specified in a policy directive,

"(a) develop a service and support profile for the

person in accordance with section 18; and

"(b) prioritize services and supports and funding for

the person in accordance with section 19."

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal. Are there any further comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 95R—"R" for "replacement"? Those opposed? Carried.

Government motion 96.

Mr. Yasir Naqvi: I move that subsection 41(4) of the bill be amended by striking out "services" and substituting "services and supports".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 96? Those opposed? Carried.

Shall section 41, as amended, carry? Carried.

With no amendments received to date for section 42, we'll proceed to its consideration. Shall section 42 carry? Carried.

Similarly with section 43, shall section 43 carry?

This committee stands in a 10-minute recess.

The committee recessed from 1605 to 1613.

The Chair (Mr. Shafiq Qaadri): I'd welcome you to please reconvene. There'll be some change of order. We'll now proceed to consider Mr. Prue's stood-down motion, I believe it's NDP motion 69, and rulings from legislative counsel. Mr. Wood.

Interjection.

The Chair (Mr. Shafiq Qaadri): Fair enough. Mr. Prue, you're welcome to proceed with NDP motion 69.

Mr. Michael Prue: I've already moved it, have I not? *Interjection*.

Mr. Michael Prue: I did move it? Okay. I needed some clarification, and I have got clarification both from legislative counsel, and I thank him for that, as well as from a member of my staff who we had run out and find out. The motion merely states that the services purchased with direct funding are subject to the same inspection regime as applies for other service providers in the act. This is to ensure, in the case of warrants or anything else, that all people are treated the same in terms of how a warrant can be issued. The Conservatives were trying to extend the warrant provisions to both the service provider and to the application entity, and what we are saying is that it needs to be even broader than that. So this would extend it even more broadly to all groups that are receiving direct funding, whether or not they are service providers or anyone else—the same thing applies.

The Chair (Mr. Shafiq Qaadri): Are there further comments? We'll now proceed to the vote. Those in

favour of NDP motion 69? Those opposed? I declare it lost

For complex procedural reasons, we shall now move to consider—

Interjection.

The Chair (Mr. Shafiq Qaadri): I'll ask for unanimous consent to stand down sections 44 to 62 inclusive because we need to deal with some title matters in section 63. Do I have that unanimous consent? It seems I do.

We will now proceed to section 63, PC motion 117A. *Interjection*.

The Chair (Mr. Shafiq Qaadri): We're now at section 63, PC motion 117A.

Mrs. Christine Elliott: I move that section 63 of the bill be struck out and the following substituted:

"Short title

"63. The short title of this act is the Services, Supports and Inclusion for Persons with Developmental Disabilities Act, 2008."

That is to reflect the need for the inclusion part of this legislation to be reflected in the title.

The Chair (Mr. Shafiq Qaadri): Thank you, Mrs. Elliott. Are there any further comments?

Mr. Michael Prue: Just a comment. I want to hear your comment between 117A, which is your motion, and 118, which is the government motion. The government motion has pretty much the same words, but they say "to promote the social inclusion," and you have "inclusion for persons." I'm just wondering if you can explain to me why you think yours is a better title than theirs. Or perhaps they can tell me why they think theirs is a better title than yours? I am guaranteed to vote for the one that I think is the best.

The Chair (Mr. Shafiq Qaadri): Beauty is in the eye of the beholder, but feel free to respond.

Mr. Michael Prue: But if you can tell me how yours is different or better, I would appreciate that.

Mrs. Christine Elliott: I suppose one could say that it's somewhat broader because there's social inclusion. There could be inclusion in other respects—recreational, vocational, or other ways—beyond just the social inclusion.

Mr. Michael Prue: Good answer. Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll now proceed to consider PC motion 117A. Those in favour? Those opposed? Defeated.

Government 118.

Mr. Khalil Ramal: I move that section 63 of the bill be struck out and the following substituted:

"Short title

"63. The short title of this act is the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008."

Because we promote, not just talk about, social inclusion. This is the difference between us and them: They don't promote and we do.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll now proceed to consideration of government motion 118.

Those in favour of government motion 118? Those opposed? Government motion 118 is carried.

Shall section 63, as amended, carry? Carried.

We'll now proceed back to section 44, PC motion 96A.

Ms. Sylvia Jones: I move that subsection 11.8(1) of the City of Greater Sudbury Act, 1999, as set out in section 44 of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services, Supports and Inclusion for Persons with Developmental Disabilities Act, 2008".

Interjections.

8 SEPTEMBRE 2008

Ms. Sylvia Jones: I'm shocked. You're going to rule me out of order?

The Chair (Mr. Shafiq Qaadri): For complex, scientific reasons, yes. Therefore, we will not be voting on it. We'll move directly to government motion 97.

Mr. Yasir Naqvi: I move that subsection 11.8(1) of the City of Greater Sudbury Act, 1999, as set out in section 44 of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Thank you. Are there any further comments? Those in favour of government motion 97? Those opposed? Carried.

Shall section 44, as amended, carry? Carried.

PC motion 97A, which you're welcome to introduce into the record, although I understand it is also out of order.

1620

Interjection.

The Chair (Mr. Shafiq Qaadri): Withdrawn.

Mr. Michael Prue: Why? I just read it; it was word-for-word identical. Why is theirs out of order and the government one is not?

Interjections.

The Chair (Mr. Shafiq Qaadri): It's the improved title, Mr. Prue.

Mr. Michael Prue: Oh, it's the approved title.
The Chair (Mr. Shafiq Qaadri): Improved title.
Mr. Michael Prue: Improved title. Right, okay.

The Chair (Mr. Shafiq Qaadri): All right, government motion 98.

Mr. Joe Dickson: I move that subsection 11.2(1) of the City of Hamilton Act, 1999, as set out in section 45 of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 98? Those opposed? Carried.

Shall section 45, as amended, carry?

You are now also welcome to put forth PC motion 98A, although I understand it is also out of order.

Interjection.

The Chair (Mr. Shafiq Qaadri): Thank you.

Government motion 99.

Mr. Yasir Naqvi: I move that subsection 12.2(1) of the City of Ottawa Act, 1999, as set out in section 46 of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 99? Those opposed? Carried.

Shall section 46, as amended, carry? Carried.

You're welcome to enter PC motion 99A into the record though out of order. Thank you.

Government motion 100.

Ms. Laurel C. Broten: I move that subsection 285(4.1) of the City of Toronto Act, 2006, as set out in subsection 47(1) of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" wherever that expression appears and substituting in each case "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Are there any further comments? If not, those in favour of government motion 100? Those opposed? Carried.

PC motion 100A is also out of order, but you're welcome to enter it into the record. Thank you.

Government motion 101.

Mr. Khalil Ramal: I move that subsection 285(4) of the City of Toronto Act, 2006, as set out in subsection 47(2) of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 101? Those opposed? Carried.

Shall section 47, as amended, carry? Carried.

Mr. Wood.

Mr. Michael Wood: I just wanted to make a short remark. I'm not sure whether the microphone picked up a comment for the record that I made on section 19.

Mr. Ramal asked me whether it was necessary to read another section as he was reading the motion. I thought that he was referring to whether it was necessary to read in the section as part of the motion. This is just a general comment; it doesn't affect the passage of any motion that this committee made. I just wanted to say that when, Mr. Ramal, you asked me if it was necessary to read another section, I misunderstood you. If your question was whether it is necessary to read the other section to interpret the bill, the answer is yes.

Mr. Khalil Ramal: I see. So we're talking about the passed—

Mr. Michael Wood: That's right. I just wanted to put this on the record so that anybody looking at the transcript wouldn't be confused.

The Chair (Mr. Shafiq Qaadri): We'll now proceed to section 48. Once again, the PC side is invited to enter

101A into the record though out of order. If not, government motion 102.

Mr. Yasir Naqvi: I move that clause 10(2)(d) of the Coroners Act, as set out in section 48 of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

Shall section 48, as amended, carry? Carried.

We'll proceed now to PC motion 102A—out of order. Government motion 103.

Mr. Joe Dickson: I move that subclause (b)(i) of the definition of "facility" in subsection 7(5) of the Crown Employees Collective Bargaining Act, 1993, as set out in subsection 49(1) of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

Shall section 49, as amended, carry? Carried.

Section 50: Motion 103A remains out of order. Government motion 104.

Mr. Vic Dhillon: I move that section 50 of the bill be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 104? Those opposed? Carried.

Shall section 50, as amended, carry? Carried.

Section 51: Similarly, PC motion 104A is out of order. We proceed now to government motion 105.

Ms. Laurel C. Broten: I move that clause (e) of the definition of "institution" in subsection 21(1) of the Health Protection and Promotion Act, as set out in section 51 of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

Shall section 51, as amended, carry? Carried.

PC motion 105A is still out of order. Government motion 106.

Mr. Yasir Naqvi: I move that section 52 of the bill be struck out and the following substituted:

"Hospital Labour Disputes Arbitration Act

"52. Clause 3(3)(a) and subsections 3(4) and (5) of the Hospital Labour Disputes Arbitration Act are amended by striking out 'Developmental Services Act' wherever that expression appears and substituting in each case

'Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008'".

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

Shall section 52, as amended, carry? Carried.

There were no amendments received today for section 53. We'll immediately move to its consideration. Shall section 53 carry? Carried.

This is PC motion 106A, which I understand is still out of order. Therefore we'll move to government motion 107.

Mr. Joe Dickson: I move that subsection 323(4.1) of the Municipal Act, 2001, as set out in subsection 54(1) of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" wherever that expression appears and substituting in each case "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

PC motion 107A is still out of order. Government motion 108.

Mr. Vic Dhillon: I move that subsection 323(4) of the Municipal Act, 2001, as set out in subsection 54(2) of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 108? Those opposed? Carried.

Shall section 54, as amended, carry? Carried.

PC motion 108A I still understand is out of order. Therefore we go to government motion 109.

Ms. Laurel C. Broten: I move that section 55 of the bill be amended by striking out "Services for Persons with Developmental Disabilities Act, 2008" and substituting "Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

Shall section 55, as amended, carry? Carried.

PC motion 109A is out of order. Government motion 110.

Mr. Khalil Ramal: I move that subclause 5(e)(i) of the Residential Tenancies Act, 2006, as set out in subsection 56(1) of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008".

1630

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

PC motion 110A is out of order.

Government motion 111.

Mr. Yasir Naqvi: I move that subclause 5(e)(i) of the Residential Tenancies Act, 2006, as set out in subsection 56(2) of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act. 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008."

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

PC motion 111A is out of order.

Government motion 112.

Mr. Joe Dickson: I move that clause 6(1)(b) of the Residential Tenancies Act, 2006, as set out in subsection 56(5) of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act. 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008."

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

Shall section 56, as amended, carry? Carried.

PC motion 112 is out of order.

Government motion 113.

Mr. Vic Dhillon: I move that clause (a.1) of the definition of "facility" in subsection 1(1) of the Substitute Decisions Act, 1992, as set out in subsection 57(1) of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008."

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

Shall section 57, as amended, carry? Carried.

PC motion 113A is out of order.

Government motion 114.

Ms. Laurel C. Broten: I move that subsections 58(1) and (2) of the bill be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" wherever that expression appears and substituting in each case "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008."

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Government motion 114 is carried.

Shall section 58, as amended, carry? Carried.

PC motion 114A is out of order.

Government motion 115.

Mr. Khalil Ramal: I move that subsection 13.2(1) of the Town of Haldimand Act, 1999, as set out in section 59 of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008."

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

Shall section 59, as amended, carry? Carried.

PC motion 115A is out of order.

Government motion 116.

Mr. Yasir Naqvi: I move that subsection 13.2(1) of the Town of Norfolk Act, 1999, as set out in section 60 of the bill, be amended by striking out "the Services for Persons with Developmental Disabilities Act, 2008" and substituting "the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008."

The Chair (Mr. Shafiq Qaadri): Those in favour? Those opposed? Carried.

Shall section 60, as amended, carry? Carried.

NDP motion 117, Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"O. Reg. 175/98 (General) made under the Workplace Safety and Insurance Act, 1997

"60.1 Schedule 1 to Ontario Regulation 175/98 (General) made under the Workplace Safety and Insurance Act, 1997 is amended by adding the following to 'Class H—Government and Related Services'"—and I'm going to make a very slight amendment here:

"5. Operation of a service agency under the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008," as has been

passed by committee.

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Mr. Michael Prue: If I could, the rationale for this: We are adding this so that all workers will be covered by the Workplace Safety and Insurance Act. We had some deputations—particularly poignant was the deputation made by a gentleman in Ottawa who had worked in Alberta, where he was at first covered by the workplace and insurance provisions of that province. Then he went into private service, where he was not, and where he was injured on duty and was forced to leave. We believe that the provisions of the Workplace Safety and Insurance Act should be applicable to people who work in this sector. The work is very often unpredictable. It can be precarious at times, and we believe that all workers, no matter whether they come from agencies or are independently contracted by families, should have the protection of the Workplace Safety and Insurance Act and should be eligible for its provisions if they are injured on the job.

Mr. Khalil Ramal: I believe this motion is out of order because the Ministry of Community and Social Services has no authority to amend the regulations of the Workplace Safety and Insurance Act, 1997. Therefore, we cannot deal with is because it's out of our jurisdiction.

Mr. Michael Prue: Well, if the Chair rules that, but I haven't heard the Chair rule that.

Mr. Khalil Ramal: What do you mean? Interjection.

The Chair (Mr. Shafiq Qaadri): It's not out of order. We'll be voting on it.

Mr. Khalil Ramal: Okay. That's just my own opinion.

Mr. Michael Prue: If it's not out of order, then I would ask that this committee approve this. We have heard from a number of people about the work, how it can be dangerous, how it can, from time to time, involve situations where people are bitten, kicked, punched or injured. All of those rights are extended at the current moment—the rights to workers' compensation and the like—to people who work for social agencies. We have known for a long time where the government is heading: to allow people to have individual contracts within the families. All we are stating is that if this is allowed to happen, if people are going to contract individuals apart from the social agencies where the workers have these guarantees—never mind the pay, but have the guarantees of the Workplace Safety and Insurance Act—that it be extended to this new class of persons who are going to be contracted. I think it's only fair to ensure. Not only are you going to have a difficulty because you would not pass the motion for equal pay across the jurisdiction and I'm not even asking that they be unionized—but now I'm asking that they have the same rights to health and safety regulations. I don't think that's too much to ask. Give them the same rights to health and safety regulations as those who work for an agency. I would want that for all workers.

Mr. Yasir Naqvi: Mr. Chair, I'm just going to ask for guidance from legislative counsel on this issue. In a clause-by-clause review, is it possible to amend a regulation pursuant to another statute?

Mr. Michael Wood: There are two questions to consider here. One is the question of, can you, in a bill, amend a regulation? I can't give you an answer with 100% certainty, but I would feel that the best opinion is that yes, you can, because the Legislature is sovereign. Regulations are delegated legislation, but the Legislature itself can amend a regulation.

The second question is, can you, in the context of this bill, amend a regulation under an act which isn't already opened up under the bill? Again, I can't give you an answer with 100% certainty. It turns on whether it falls within the subject matter of this bill, and that ultimately

is up to the Chair to rule on. But there is certainly an argument in favour of saying that it is, broadly speaking, within the subject matter of the bill.

The Chair (Mr. Shafiq Qaadri): Are there any further comments before we consider this motion? Seeing none—

Mr. Michael Prue: A recorded vote, please.

Ayes

Elliott, Jones, Prue.

Navs

Broten, Dhillon, Dickson, Naqvi, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 117 is defeated.

Shall sections 61 and 62 inclusive, with no amendments having been received to date, carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 77, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

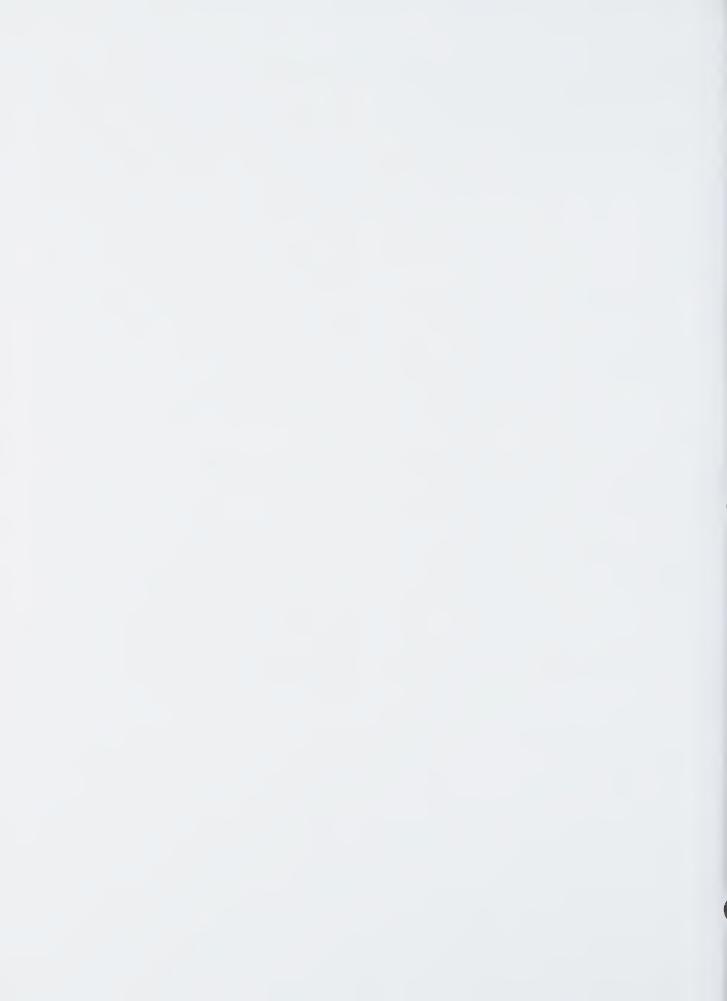
I thank the committee for your—yes, Mr. Prue?

Mr. Michael Prue: If I could, I believe I misspoke earlier and I just want to correct the record. It was my understanding, when Mr. Thomas spoke on behalf of OPSEU, that they were the largest union or had the largest number of members dealing in this sector. I have since been advised that my understanding of what he had to say that day may have not been correct, and I wish the record to show that although they have a great number of members, CUPE actually has more.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue.

I thank the committee for your efficiency and endurance. This committee now stands adjourned.

The committee adjourned at 1640.



CONTENTS

Monday 8 September 2008

Services for Persons with Developmental Disabilities Act, 2008, Bill 77, Mrs. Meilleur /	
Loi de 2008 sur les services aux personnes ayant une déficience intellectuelle,	
projet de loi 77, M ^{me} Meilleur	SP-325

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke–Lakeshore L)
Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)
Ms. Cheri DiNovo (Parkdale–High Park ND)
Ms. Helena Jaczek (Oak Ridges–Markham L)
Mr. Dave Levac (Brant L)
Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)
Mr. Khalil Ramal (London–Fanshawe L)
Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)

Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Joe Dickson (Ajax-Pickering L)
Mrs. Christine Elliott (Whitby-Oshawa PC)
Ms. Sylvia Jones (Dufferin-Caledon PC)
Mr. Paul Miller (Hamilton East-Stoney Creek / Hamilton-Est-Stoney Creek ND)
Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)
Mr. Michael Prue (Beaches-East York ND)

Also taking part / Autres participants et participantes

Mr. Michael Prue (Beaches-East York ND)

Clerk pro tem/ Greffier par intérim Mr. William Short

Staff / Personnel

Ms. Colette Kent, director, Ministry of Community and Social Services, developmental services branch Mr. Michael Wood, legislative counsel

SP-14

Publicati



ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Monday 27 October 2008

Standing Committee on Social Policy

Increasing Access to Qualified Health Professionals for Ontarians Act, 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Lundi 27 octobre 2008

Comité permanent de la politique sociale

Loi de 2008 visant à accroître l'accès des Ontariennes et des Ontariens aux professionnels de la santé qualifiés

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 27 October 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 27 octobre 2008

The committee met at 1430 in room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues both past and current, I'd like to call this meeting of the parliamentary Standing Committee on Social Policy to order. As you know, we're here to discuss and hear from Ontarians about Bill 97, An Act to increase access to qualified health professionals for all Ontarians by amending the Regulated Health Professions Act, 1991.

The first order of business is our subcommittee report, which I would ask Ms. Broten to please enter into the record.

Ms. Laurel C. Broten: This is the report of the sub-committee.

Your subcommittee on committee business met on Wednesday, October 15 and Thursday, October 23, 2008, to consider the method of proceeding on Bill 97, An Act to increase access to qualified health professionals for all Ontarians by amending the Regulated Health Professions Act, 1991, and recommends the following:

- (1) That the committee meet for the purpose of holding public hearings in Toronto on Monday, October 27 and Tuesday, October 28, 2008.
- (2) That the clerk of the committee, with the authority of the Chair, prepare and implement an advertisement strategy for the major daily newspapers and post the information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.
- (3) That interested people who wish to be considered to make an oral presentation on the bill should contact the clerk of the committee by Thursday, October 23, 2008, at 5 p.m.
- (4) That the length of presentations for witnesses be 20 minutes for groups and 10 minutes for individuals.
- (5) That the deadline for written submissions be Thursday, October 30, 2008, at 5 p.m.
- (6) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Broten. Are there any discussions or comments before adopting the subcommittee report as read? Seeing none,

those in favour? Those opposed? I declare the subcommittee report adopted.

INCREASING ACCESS TO QUALIFIED HEALTH PROFESSIONALS FOR ONTARIANS ACT, 2008

LOI DE 2008 VISANT À ACCROÎTRE L'ACCÈS DES ONTARIENNES ET DES ONTARIENS AUX PROFESSIONNELS DE LA SANTÉ QUALIFIÉS

Consideration of Bill 97, An Act to increase access to qualified health professionals for all Ontarians by amending the Regulated Health Professions Act, 1991 / Projet de loi 97, Loi visant à accroître l'accès des Ontariennes et des Ontariens aux professionnels de la santé qualifiés en modifiant la Loi de 1991 sur les professions de la santé réglementées.

SICKLE CELL ASSOCIATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): We'll now proceed to our first presenters of the day. I would like to welcome, on behalf of the committee, the Sickle Cell Association of Ontario: first of all, Lillie Johnson, director, as well as Mr. Bob Frankford.

Mr. Frankford, we of course acknowledge you as one of our former colleagues, an MPP of this Legislature some time ago. I'd invite you to please be seated. You'll have 20 minutes in which to make your complete presentation, as you know, and any time remaining after your formal presentation will be divided evenly amongst the parties for questions or comments. I'd invite you to begin.

Dr. Bob Frankford: We're very pleased to be here this afternoon. Lillie and I are directors of the Sickle Cell Association of Ontario. We had hoped that Janet Mulgrave, our president, would be here, but she's too busy working in her day job. But she supports what we're going to say.

Just a few remarks before I introduce Ms. Johnson. The Sickle Cell Association has been in existence for about 26 years, educating, raising issues and providing support for people with sickle cell. As you no doubt know, sickle cell is the commonest genetic blood disorder. It's very much associated with African and Afro-

Caribbean populations, although it certainly occurs in many more groups than that.

I won't say any more. I'll pass this over to Ms. Johnson, who would like to tell you more about us and our position on this bill.

Ms. Lillie Johnson: It is a privilege to be here this afternoon to explain to this group, after 27 years, what we've discovered. One of the most important things is access to the different health care places like hospitals and others, where especially the adults are looked after.

As you are aware, the population in Toronto and the outlying areas has changed considerably, and that means that the highest population for sickle cell and any of the other hemoglobinopathies has extended. We would like also to point out that with newborn screening, there are different things that we have got to look at; that is, we need specialized people, like hematologists, doctors and geneticists, who will be following up with these people. At that end of it, you have the newborn screening; that is, early identification. At the other end of it, we need to be following up with the people or families with traits. So we have, then, that group, plus the others like high schools and different carriers, because since this is an incurable disease, we need to be looking at different aspects where we can reduce the number of people being born with sickle cell disease; that is, we have to find the traits, the carriers.

Added to that, we find that with the different groups in the population, there is a language problem. We have French, we have different people from different parts of Africa, the Caribbean, Somalis and different people who speak different languages. So there also is a problem with how we can get our educational programs out there.

Our mission, really, is to look after the individuals and families with sickle cell after they have been diagnosed. That is, we are looking at a multi-disciplinary program, in which there are not only qualified doctors and nurses, but we are looking too at psychiatrists, social workers and teachers, because these kids spend a lot of time in school. They lose a lot of time and they need follow-up, because our mission is to try and keep them as well as possible so that they can gain as much from their school program and be active members of society.

Dr. Bob Frankford: The Sickle Cell Association is pleased to support this bill for a number of reasons. We certainly share the general concerns about the shortage of doctors and nurses dedicated to this area. As Lillie said, it's a very complex disease, which can affect essentially any organ system. So it's not just a disease for hematologists, although they are certainly important, but people from other specialties like neurology, respiratory medicine and dermatology. So we share in the concerns about the lack of replacement in all of these specialties, and we see this bill as being a useful step towards replacement and retention of skilled specialists.

Lillie has mentioned, as well as the concerns about the shortages of doctors in their retirement, that we are going to be seeing increased populations at risk, some due to the newborn screening program, which is excellent and

for which we are very, very grateful, that has been brought in after two years. Perhaps, at this point, I'll just mention, to put in perspective, how common this problem is, understanding that in the first two years of operation of the screening program, about 50 children with the disease are identified in the province out of about 140,000 births. That's a considerable burden on the system when you think about how much hospital time these children are potentially going to need.

1440 We're supportive of the bill and just would like to throw in a few other suggestions. Social workers have been mentioned. Social workers are not under the RHPA so they are not included in this, and we certainly would like to ensure that social workers have a strong medical role, because they're extremely important in relation to the determinants of health, which are particularly relevant in this, in addition to the genetic aspects of sickle cell. We don't see anything that's directly going to affect genetic counselling, which is another very important part of the management of sickle cell, particularly, as was mentioned, in relation to the carriers who are really quite healthy, but the potential of carrying the gene within a family is very critical. We'd like to be sure that public appointments to the college understand the issue, understand the diversity and the diseases associated with

Finally, we would suggest that there is better and available research in relation to the potential use of foreign-trained physicians and nurses who are not yet licensed but who probably bring considerable experience from their own countries in relation to sickle cell disease.

The Chair (Mr. Shafiq Qaadri): That's great. Have you completed your presentation, or did you want to say something?

Ms. Lillie Johnson: Just one more thing. The Chair (Mr. Shafiq Qaadri): Please.

Ms. Lillie Johnson: We usually talk about sickle cell, but sickle cell is not the only disorder. This is a red blood cell disorder, and at this point in time we should be emphasizing thalassemia and the other disorders, because they are all red blood cells. What we find now is that many of the individuals out there have sickle cell thalassemia and different disorders like sickle cell C, D, E and whatever. So we would like to approach this as the hemoglobinopathies—that is all of them under one heading. We have to include all of them.

The Chair (Mr. Shafiq Qaadri): I suspect that Dr. Frankford and myself may be the only people who fully understand the word "hemoglobinopathy," but I appreciate your comments. We have probably two and a half minutes—

Interjection.

The Chair (Mr. Shafiq Qaadri): Oh, of course. And Dr. Jaczek; absolutely.

We now have about two and a half minutes per side, beginning with the PC caucus.

Mrs. Elizabeth Witmer: Thank you very much, Dr. Frankford and Ms. Johnson, for your efforts to advocate

on behalf of those with sickle cell and obviously the need to have multidisciplinary teams in place to respond to the needs of those individuals. However, you've indicated that you support the bill.

Now, the bill is one line. The bill says, "It is the duty of the college to work in consultation with the minister to ensure, as a matter of public interest, that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated health professionals." How do you perceive this bill helping those with sickle cell disease?

Dr. Bob Frankford: Well, I see the words "have access to adequate numbers." I think that's the problem that we're concerned about, the numbers of professionals available currently, let alone what is going to happen in the future, as the need is likely to increase as a result of such things as immigration and a greater identification of cases due to the newborn screening program.

Mrs. Elizabeth Witmer: Right, but how are we—you know, the Premier, five years ago, promised to provide the adequate number of health professionals. That hasn't happened. We now see an attempt by the government to hand off some of this responsibility to the colleges, I guess. How do you think we're magically going to have these numbers?

Ms. Lillie Johnson: Right now, I feel that there is one centre where you have care for adult sickle cell patients, where they can be thoroughly assessed by the specialist hematologist and the other doctors. Outside of Toronto, when you go to Brampton, Mississauga, and the different areas, there are no specialists in the different hospitals who can attend to them, and we feel that this could be addressed at this level, that we do have more trained people specifically. I know you can't do it for every hospital, but I see that there is a problem when they are turned away and not able to get—especially those who have just been discharged from Sick Children's. At 18 years, there is absolutely no care. Most of the physicians are not too up to date with the care of young adult sickle cell patients.

Mrs. Elizabeth Witmer: Part of the problem, then, is the lack of awareness among family doctors about sickle cell?

Ms. Lillie Johnson: Yes, I would say that.

The Chair (Mr. Shafiq Qaadri): I need to respectfully intervene there. We'll now move to the NDP caucus. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for coming and deputing today. Welcome back, Dr. Frankford.

Picking up where my colleague left off, this is a pretty small little bill with very little to say about a subject for which we in the New Democrats think a lot needs to be said. Certainly, it may be an inch where we need a mile.

I'll just ask you, perhaps, to step out of your own comfort zones a little bit. You had mentioned internationally trained doctors and professionals, social workers among them. Do you have any ideas about what you might want to add to this in terms of how we are going to chip away at—there are a million Ontarians without a family doctor

for starters, never mind your particular interest in sickle cell work. What should we do?

Dr. Bob Frankford: That's a nice broad question.

Ms. Lillie Johnson: This is just a suggestion, from how I see it. Let's say that John is 18 years old, so John is not able to access care. He gets in a crisis and he goes to a hospital. He sees new people he has never seen before. For anyone who has studied sickle cell and the complications, it is not very good when you are in a crisis. They must know how to treat you immediately. So my suggestion would be—and it's easy; we don't have to get into a whole lot of money—we could have different centres. On a Wednesday afternoon, John could go to "B" because they know that that afternoon a trained hematologist or a physician would be there, and this is somebody that they would be seeing each time. In other words, we are saying that we could select different areas and we could say that a half day would be the day when sickle cell and thalassemia patients would be seen. In other words, we could share services.

For the social workers and the nurses, I have been trying to get to the schools of nursing to say that hemoglobinopathy should be taught in a more specific way. Right now, I'm mentoring students, so I do know that they know very little or nothing about sickle cell. The only thing they know is to tell you that it's a black people's disease. It's far from that, because I could bring an array of different people here to show you that it goes right across all the different nationalities. So, we are—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Johnson. I'll respectfully just intervene there. We'll go to the government side. Ms. Broten.

Ms. Laurel C. Broten: Thank you very much, and thank you both for your advocacy on behalf of a group in our society that perhaps, in the past, has been forgotten somewhat, so thank you very much for that. I also want to thank you for your support of Bill 97. I want to ask you whether you agree that our regulatory colleges should have a duty to consider that it is an important area of public interest that our citizens have access to qualified physicians.

1450

Dr. Bob Frankford: I can't imagine saying no to that. **Ms. Laurel C. Broten:** Thank you. Do you think that a qualified physician, now practising in another province, in the United States or other parts of the world, who wants to come to Ontario and set up a practice here would be beneficial for those whom you advocate on behalf of?

Dr. Bob Frankford: I'm sure there are many people who would be very well qualified. Confining ourselves to hemoglobinopathies, there must be people in—we have very good relations and respect for doctors in Jamaica. We would feel that there must be a great deal that we should be able to input from elsewhere. How the licensing and reciprocities are going to work, that's for other people to decide, but I think that there's a whole other—we can benefit. Of course, we don't want to poach too much from countries that need physicians and nurses

every bit as much as we do, but it's a world of widespread travel and sharing information, so I think there's much that is going to be achieved by reciprocal arrangements.

Ms. Laurel C. Broten: Thank you very much, and

thank you for attending today.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Broten, and thanks to you as well, Ms. Johnson and Dr. Frankford, for your participation and presentation on behalf of the Sickle Cell Association of Ontario.

OFFICE OF THE FAIRNESS COMMISSIONER

The Chair (Mr. Shafiq Qaadri): I'd now like to welcome a very distinguished colleague from her federal service, as well as now, in the government of Ontario. As you'll know, she's the former federal member of Parliament for the great riding of Etobicoke—Lakeshore, which continues to be very ably led, both at the federal and provincial level. I'd now invite Ms. Augustine to please begin her comments in her capacity as Ontario's Fairness Commissioner and, of course, introducing your colleague.

You have 20 minutes in which to make your

presentation. Please begin.

Dr. Jean Augustine: Merci beaucoup et bonjour. Mr. Chairman, I am really grateful to have the opportunity to meet with you and the committee this afternoon. With me are two of the staff of the Office of the Fairness Commissioner: Wilson West, who is a policy adviser, and Beatrice Schriever, who is a communications officer. We have a written submission, but I am pleased about the opportunity to speak to you directly, as you study Bill 97.

As you know, my office was established under the Fair Access to Regulated Professions Act, 2006, or FARPA, as we call it. My office oversees 21 health professions to make sure that their registration practices are transparent, objective, impartial and fair. Bill 97 and FARPA share a common goal: It is our conviction that fair registration in the health professions will mean increased access to qualified health professionals. In the context of the current shortage of health care practitioners in Ontario, it is crucial to ensure better access to the professions for qualified applicants. This will be a major step towards improving access to health care for all Ontarians.

My office undertook a study of registration practices of the 21 health colleges. We learned about some excellent initiatives that have improved applicants' entry into the health professions in Ontario. They include bridging programs, occupation-specific language training, prior learning assessments and examinations that replace work experience requirements.

This afternoon, I will outline briefly some of the findings that are relevant to your consideration of Bill 97.

(1) Some health professions have registration requirements that may create barriers for applicants, especially for those educated in other countries. One significant

example is that of the College of Physicians and Surgeons of Ontario. Everyone who wants to become a doctor must perform a medical residency where he or she practises under the supervision of a licensed practitioner, but there may not be enough residency spaces. The allocation of spaces is an extremely complex process involving input from many organizations.

Accordingly, the Office of the Fairness Commissioner recommends that the Standing Committee on Social Policy consider the issues surrounding the process for determining the number of available medical residency spaces and the allotment to domestic and international

applicants.

(2) Many of the health colleges commented to us that the process to make changes to their statutes or regulations can be very lengthy. As a result, they're unable to move ahead with new policies and procedures that would reduce barriers to registration.

So we're recommending that amendments to statutes and registration regulations aimed at removing barriers

be expedited through the approval process.

(3) We found that some internationally trained individuals turn to programs offered by private educational institutions that advertise an easier path to registration, but these programs may not be accredited.

We recommend that professional programs offered by private educational institutions meet the academic requirements of the regulated professions. In the interim, institutions should inform prospective students whether or not their programs are accredited for registration in the

profession.

(4) I'd like to turn again to the subject of international medical graduates. I've noticed that governments have been focusing on new skilled immigrants at the expense of those who've been in Ontario for some time, yet they are an important source of talent with valuable skills. They can contribute to relieving the shortage of doctors in Ontario. The College of Physicians and Surgeons of Ontario recently announced that it would fast-track applicants from the United States, other provinces and eight other countries, and this is good, but it does not address the problems faced by candidates already in Ontario, nor does it help people from countries that are not on the approved list, unless they meet these onerous requirements.

Let's look at what this means in practice. Our study of registration practices revealed that, in 2007, the top five countries from which internationally trained doctors came were in this order: India, Saudi Arabia, the UK, Pakistan and Australia. Only two of these countries, Australia and the UK, are included in the college's proposed list of fast-track countries. In other words, the program doesn't address three of the top five countries—India, Saudi Arabia and Pakistan—from which their own internationally educated applicants come.

I believe that this is called "picking the low-hanging fruit." The college is on the right track, but their own demographics should be telling them what to do next. Consequently, we recommend that this committee recommend that fair consideration be given to those applicants in the implementation of the fast-tracking initiative.

(5) My office is doing research on registration practices in other jurisdictions. Australia is one place that faces similar challenges to Ontario with respect to medical residency. Currently, Ontario requires all doctors to do at least one year as a resident regardless of the quality of their education or their competence. In Australia, the type of supervised training required of applicants depends on the quality of their education. To assess, governments there use the Australian Medical Council database. This database records the test scores of all applicants, and the database is then used to determine the length of supervised training an applicant is likely to need. The better the quality of an applicant's education, the shorter the period of required supervised training.

The Australian model also takes into account specific schools. For example, the applicants who graduated from the best medical schools in, say, a place like China will not do a full year of residencies. Doctors who graduate from Canada or the United Kingdom and go to Australia will typically need a short period of light supervision.

Our final recommendation is that the committee recommend a study of efficient alternatives in other jurisdictions, and if they are appropriate, these best practices could be tailored to Ontario.

Achieving better access to health care for Ontarians and better entry into the professions for all applicants is a complex endeavour. Ensuring that the people of Ontario have access to adequate numbers of qualified, skilled and competent health professionals requires a serious commitment from all stakeholders. The government plays a key role in improving access to health care. It is not the responsibility of the health colleges alone.

We thank you for your interest this afternoon. I'll be prepared to answer questions from the committee, Mr. Chairman.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Augustine, to you and your colleagues. We'll begin with the NDP side. Ms. DiNovo, about three minutes or so per side.

Ms. Cheri DiNovo: Thank you so much, Ms. Augustine. I found that very informative. You fleshed out what is a very thin bill. It's a bill that we in the New Democratic Party are going to support, but we wish there was a lot more to it, and you've added that lot more.

I just wanted to give you an example from my own constituency—it's not unusual—and wonder how you would change the system that we have to accommodate this person. I have a surgeon who came from Iran. He worked many, many years in Iran. He came over here working as a baker and was told that it would take him 10 years to be accredited. He doesn't have the money; he can't take the time. He would be in his 50s by the time this happened. So what he's doing now is going back to Iran for six months of the year to practise, and then coming back here to spend time with his family. This

seems to me outrageous. How would you suggest that we deal with this particular kind of applicant differently?

Dr. Jean Augustine: Thank you very much, Ms. DiNovo. This is not an atypical individual or atypical case. We do hear from individuals. But I want to say to the committee that the Office of the Fairness Commissioner and the mandate I have through the legislation—I have no mandate whatsoever to deal with individual cases. We are arm's length to government; we are arm's length, as it were, to the regulatory bodies.

At the same time, the stories that we do hear, the individuals who provide us with information: This is good intelligence for us as we ask the questions around the fairness, impartiality and length of time. We have been working with regulatory bodies to ask: "How long does it take? What kinds of exams? How many exams? What are your fees? How many fees? How many times can someone write the exam? Do you pay the fee each time you have to do the exam?" We ask again about appeal processes and what kinds of appeal processes there are.

Actually, what we have is a mandate from the legislation really to ensure that the registration practices are fair, impartial, open, transparent, and that answers are given to individuals in that fashion. The regulatory bodies, each and every one of them, are working towards compliance. What we are attempting to do is to create systemic change in the way in which they operate, because many times, when we ask the question or we bring forward an issue, we're told, "This is the way it has always been done." We know that there are several-I call them barriers or hoops. I see my role as commissioner to ensure that those hoops or barriers are not unnecessarily placed. The questions we ask, the probing we do, the questionnaires we send out and the way in which we're working with the regulatory bodies are to ensure that they recognize the systemic things that might be in the system.

I also, in conversations—

The Chair (Mr. Shafiq Qaadri): Ms. Augustine, with respect, I'll need to intervene there. Thank you, Ms DiNovo.

To the government side.

Ms. Laurel C. Broten: Thank you for being here today. I think one of the comments that you opened your statement with is one that we should all pay very close attention to: Fair registration would mean increased access to health professions for qualified applicants. Bill 97, as you know, does not speak to every aspect of breaking down the barriers, but it is one part of our government's plan to do so, in combination with Health-ForceOntario, the access centre, the Centre for the Evaluation of Health Professionals, along with the other five points of the action plan that I put forward a number of months ago.

I wanted to just highlight for you and ask for your input as to whether or not a transitional licence that would allow an individual to practise under supervision while they completed some required education, increased

mentorship and bridging programs, hands-on training or perhaps training and bridging to another area of the health profession might speak to the needs of some of the individuals that you referenced in your comments who may not be directly assisted by Bill 97.

Dr. Jean Augustine: I think there is no argument whatsoever about transitional licensing. As we look at other experiences outside our own Ontario jurisdiction, we see those issues like transition, bridging, mentoring and putting individuals in the periphery of the profession so that they could, in turn, be ready, and not be exposed or left to be underemployed, to look for and take other opportunities that frustrate them that they're not a productive member and can't quickly become a productive member of Ontario society.

I think all of the suggestions that you have would certainly make life better for those individuals and also would ensure, through transitional licensing and other things that work in other jurisdictions, that that would make the registration and the quick entry into the profession better for all.

Ms. Laurel C. Broten: Thank you for the work that you're doing, and thank you for helping us make the registration more fair as we move forward, and we'll continue to do that.

Dr. Jean Augustine: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Broten. To the PC side.

Mrs. Elizabeth Witmer: Thank you very much. I appreciate the presentation you've made. In fact, there may have been some substance to the bill if some of your recommendations were actually part of what we have here, which is one sentence. Despite what Ms. Broten has said, this bill doesn't speak to breaking down any barriers whatsoever.

I guess that's what so regrettable. There were high expectations, particularly amongst the international medical graduates, that they would see some hope. There isn't any hope here. It's fine to say that the colleges are going to work with the government, but the reality that is the government, as you just said, continues to play a key role in improving access to health care. For example, we need to increase the number of residency spaces, and there are changes to statutes and registration regulations that need to be made.

But I ask you: If there was one change that you would ask the government to make that would create a level playing field and better access for foreign-trained professionals, what would it be?

Ds. Jean Augustine: It's like the good old "make one wish."

Mrs. Elizabeth Witmer: That's right. Well, sometimes that's all you can hope for.

Dr. Jean Augustine: It seems to me that when we look at the systemic issues and we see the individuals who are joining us and the skills that they bring with them, it's important to recognize right off the bat that there are barriers in the way of getting into the profession and that doing things in a timely fashion is essential.

As I said earlier in my presentation, when we look at other jurisdictions, the OECD has done some work with 10 countries, looking at their processes. I was lately at the presentation by the EU: again, there are the languages in the 34 different EU countries and the ability to transition and to have temporary opportunities etc. I think there are practices out there that maybe we can look at and find the best for us, because, again, we want to underscore that we want a quality system, we want individuals who bring with them expertise, and we want to make sure that it fits with what we have set out as quality of care in our province.

At the same time, we want to ensure that in this global village, where there's competition for skills and those individuals can go to other jurisdictions and not necessarily come and sit in a waiting line here in Ontario, frustrated and, as Ms. DiNovo says, underemployed and with difficulties in their lives—I think my one wish would be, let's get going on this.

1510

Mrs. Elizabeth Witmer: So, timeliness.

Dr. Jean Augustine: Timeliness.

The Chair (Mr. Shafiq Qaadri): Thank you, Mrs. Witmer, and thank you as well, Ms. Augustine, to you and your representatives of the Fairness Commissioner's office.

MURRAY RUBIN

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter, who will be testifying before us in his capacity as a private citizen: Mr. Murray Rubin.

Welcome, Mr. Rubin, and just to remind you, as you've seen, you'll have 10 minutes in which to make your presentation and questions, comments after—

Mr. Murray Rubin: Thank you. I'm well aware that I only have 10 minutes.

The Chair (Mr. Shafiq Qaadri): Please begin.

Mr. Murray Rubin: Personal modesty is not called for when one tries to promote a change that will literally revamp a portion of our health care system. My name is Murray Rubin, and I graduated in pharmacy at the University of Toronto faculty of pharmacy in 1954. I operated a mail-order pharmacy named Vanguard Drug Mart in 1960 in Toronto, from a second-floor location in order to be able to lower prices to my customers by lowering my overhead. I was very successful. When I sold my store, we had over 30 regular pharmacies in operation throughout the province. I have, at present, no financial interest in the health care system.

We were the first retail pharmacy to computerize our prescription records. All pharmacies are now computerized. We were the only pharmacy to regularly phone doctors all over the province, at our expense, to ask to change brand-name drugs to generics in order to save our customers money. Years later, the Ontario government passed a law allowing all pharmacists to do what we regularly did, but without the need to phone doctors for permission.

The players and their prejudices in the health care system: The players in the health care system are the politicians, the public, the health care professions and the companies that provide the ancillary services that allow the system to operate. The companies are beyond the scope of this presentation, but believe me, I have a lot to say about them, too.

The politicians are interested, first and foremost, in getting re-elected. They start every project with the best of intentions, but after they have consulted all the players and have seen that changes will cause a lot of dissension, will take time, and they will probably not be in office when the system works well, they back off and do as little as they can get away with. Sterling Lyon, a former Premier of Manitoba, 1977 to 1981, raised the fee for the Manitoba health plan and was soundly defeated in the next election after only one term—a lesson not lost on the other Premiers. Bill 97 is as little as they can get away with.

The public wants the best health care, wants it free and wants to pay as little in taxes as possible.

The health care professions: The primary interests of the professions are to provide good health care, to protect the privileges accorded them by law—protect their turf—and to make sure the fees they receive from the government are not lowered. Incidentally, they judge who is qualified to practise in the province—a not-so-modest conflict of interest.

The changes we need, as soon as possible: There are many changes necessary in our health care system. Because of time limitations, I intend to discuss the areas around the general practitioner, the nurse practitioner and

the pharmacist.

We are headed into a demographic disaster. It is a well-known fact that our older population uses up a disproportionate amount of the health care dollar. Average spending in Canada per person per year on health care in 2004 was \$2,630, while spending for those aged 65 to 69 was \$5,016 and those between 80 and 84 was around \$11,902. The total population grew by 5.4% over the past five years, while the 55-to-64 group increased by 25%. One in every seven Canadians is a senior citizen, according to the 2006 census. Life expectancy is up, while the fertility rate of women is down below the replacement level to maintain our population. In essence, there will be fewer younger people working to pay the taxes to maintain the health care of the elderly.

We do not need more GPs, except in remote areas. We need pharmacists and nurses to do some of the less complicated work done by GPs for less money. We need to save money. Nurse practitioner clinics, such as the one in operation in Sudbury, is one answer, and a good answer. They work on salary. Pharmacists in drugstores can give advice for a fee on minor colds, headaches etc., and if necessary send a patient on to a doctor. Pharmacists should be allowed to repeat a doctor's prescription and save a fee for an office visit.

When I spoke to my GP about the need for more doctors, he laughed and said, "If GPs did less Botox work, they would have more time for regular work."

The pharmacist should be allowed to advise the doctor that a new prescription he just prescribed is not necessary as the drug now in use is fine, at a tenth of the price. A myth propagated by the medical profession is that they are the only people capable of doing these tasks. That is not so. Many mistakes are made by doctors.

Will the government make these changes? You bet your life they will not.

What should be done by the government? Appoint committees of people to go over what each profession does; include members of each profession in all committees; and look for ways to give good service for less money. Professions are not entitled to stay static forever. Conditions change; we have to teach less qualified people to do the less complicated work. Take it out of the hands of the government, and then maybe progress can be made.

I have a blog, http://murrayrubin.blogspot.com. That's it.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Rubin. We'll have a minute per side, beginning with the government.

Ms. Laurel C. Broten: Thank you very much, Mr. Rubin, for attending. I would thank you very much for indicating your support for our nurse practitioner clinics. It's certainly something that we're very proud of and we look forward to expanding across the province.

The Chair (Mr. Shafiq Qaadri): Mr. Shurman.

Mr. Peter Shurman: This is a silly-sounding question, but I mean it seriously: I take it you don't support this bill in any way?

Mr. Murray Rubin: This bill is a con. They say that they are trying to get more people into the profession, but the professional colleges could have done that all along if they were really going to do it. You need more push to get them to bring in more people to give them competition for their people. Let's be realistic. I don't not support it. It certainly doesn't do any harm, but it gives an impression that isn't true.

1520

Mr. Peter Shurman: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Shurman, Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, and thank you for your passion. I would agree that this bill doesn't do much. Certainly, we, the New Democrats, have supported community health centres; they were, in part, one of our inventions, and certainly, nurse practitioners are something that we would support as well. We need more nurses, no doubt.

I'd just correct something for the record, and that is, on behalf of everyone around the table, we're all public servants here and I think, speaking for all of us, we don't just want to get re-elected; we actually do work really hard on behalf of our constituents. I just wanted to correct that. I know it's a popular thing to trounce politicians, but I don't think it's an accurate stance. Thank you otherwise, Mr. Rubin.

Mr. Murray Rubin: I'm entitled to one mistake.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo. Thank you, Mr. Rubin, for your presence and your presentation. I'll have the clerk distribute that to all members.

The Chair (Mr. Shafiq Qaadri): We have, I think, one cancellation, but we'll attempt to move forward. The next presenter's actually by teleconference, I understand, in Windsor, but is Mr. Mel Freedman present?

In the absence of Mr. Freedman, we will canvass Windsor-

Interjection.

The Chair (Mr. Shafiq Qaadri): Is Mr. Milling available from the RNAO, the Registered Nurses' Association of Ontario? No. Okay.

Interjection.

WINDSOR WOMEN WORKING WITH IMMIGRANT WOMEN

The Chair (Mr. Shafiq Qaadri): I understand that we do have Sungee John, past president of the Windsor Women Working With Immigrant Women. Is that correct? Ms. John, are you available?

Ms. Sungee John: Hello.

The Chair (Mr. Shafiq Qaadri): Hi. The committee is meeting and anxious to hear you. You have 20 minutes in which to make your presentation, and questions and comments if there's any time following. I'd invite you to please begin now.

Ms. Sungee John: Thank you. My name is Sungee John and I'm with Windsor Women Working with Immigrant Women. Accompanying me for this teleconference is Dr. Ahmer Rasool. He's the president of the Windsor-Essex International Medical Graduates. We do appreciate having—

The Chair (Mr. Shafiq Qaadri): Could I just ask you to speak into your microphone? It's a bit hard to hear

Ms. Sungee John: Is that better? I don't know. Can you hear me?

The Chair (Mr. Shafiq Qaadri): Go ahead, please.

Ms. Sungee John: Can you hear us better? Are we coming across a little louder?

The Chair (Mr. Shafiq Qaadri): Yes.

Ms. Sungee John: Okay. Once again, my name is Sungee John and I'm the past president of Windsor Women Working with Immigrant Women. With me for this teleconference is Dr. Ahmer Rasool. He's the president of the Windsor-Essex International Medical Graduates. We do appreciate having this opportunity to submit our comments regarding Bill 97 and the proposed changes to the Regulated Health Professions Act, 1991.

Generally, we are in support of the proposed changes because we think that they will offer more transparency in the decision-making process and allow some government oversight in the process. However, we also feel that it could be improved by including stakeholder input in the consultations, along with the Ministry of Health and the colleges of the related regulatory professions.

We also wanted to raise some points regarding the regulations. Under the proposed changes, it mentions that the government will be working with the college to amend regulations under the Medicine Act. They've detailed five recommendations. By and large, we support most of the recommendations, and Dr. Rasool can expand upon this. However, the first one, the directed practice recommendation, which talks about streamlining the registration process for doctors already practising elsewhere in Canada, the US or other countries with a comparable health and medical education system—for WEIMG, the Windsor-Essex International Medical Graduates, that poses some concerns because, once again, this gives an advantage to people living outside of Ontario. So for IMGs who have been residing in Ontario for at least a year or more, they fear that this process will once again put them on the outside looking in. Perhaps Dr. Rasool can comment on some of these recommendations. Dr. Rasool?

Dr. Ahmer Rasool: Hi. How are you? Can you hear me?

The Chair (Mr. Shafiq Qaadri): Yes. Please go ahead.

Dr. Ahmer Rasool: We support the act, but recommendation number 1 is directed practice: Streamline the registration process for doctors already practising elsewhere in Canada, the US and other countries. As you know, we already have doctors from South Africa, the UK, Australia and the US competing with us. My recommendation would be that at least for PGY-1, 2 and 3 positions—and that does not include the specialties and subspecialties—they should consider those IMGs residing in Ontario for at least one year, just like Alberta and Manitoba. Specialties and subspecialties are different categories, where you can always go and look for other physicians in other countries who are already practising and have postgraduate diplomas. But for those who have PGY-1, 2 and 3 positions, they are still waiting for their chance to get into the system.

The other point I want to make is, those people who are residing in Ontario and have done their MCC examinations and have proven their credentials should be given a three-to-six-month assessment under supervision in a teaching hospital before their fate is decided.

The other thing is, IMGs especially don't have any bridging program for the health care system, and that includes some other health-related professions.

The fourth comment is that there should be an ease on the foreign-trained professions by the universities and colleges so that they could have an expedited program where they can be given special training so that they can be integrated into the system. The government can save a lot of money on those who already have vast experience in their field.

The fifth one, which I think is a concern to everybody, whether they are from outside or inside, is the transparency of the system, the way the interviews are conducted, the way the examinations are conducted, because at the

end, even if they have done everything, they were never told why they were not taken into the system.

That concludes my five points.

The Chair (Mr. Shafiq Qaadri): Thank you very much. Have you both completed your formal presentations?

Ms. Sungee John: More or less.

The Chair (Mr. Shafiq Qaadri): Fine. We'll have considerable time for questions and comments. We'll begin with the Progressive Conservative caucus, and I would invite Ms. Laurie Scott to please begin. You have three and a half minutes or so per side.

Ms. Laurie Scott: Thank you very much. The first speaker who spoke said that she would support the recommendations. The bill is only one page and really almost one line. I just wondered what recommendations she was referring to.

Ms. Sungee John: The consultation between government and the college. The only addition I would make is that the consultations should be opened up for stakeholders to be involved in that process in terms of looking at the needs.

1530

Ms. Laurie Scott: This is something that's not obviously addressed in the bill. Do you think, from your association's presentation, that this bill actually addresses any of the concerns that you've brought forward?

Ms. Sungee John: Well, it's a start. It certainly doesn't address the meat of the concerns. In the years we've had working with IMGs locally and dealing with the various systemic structures in place, we know how difficult it is to even get a foot in the door. If this obliges the college to open up slightly some of their process and allow some modicum of transparency, we are all in support of that.

Ms. Laurie Scott: I appreciate that. You've worked with the college, I take it, in the past, with the IMGs. This bill really is just saying to work in consultation with the ministry, which we would have hoped would have been happening already. The bill doesn't even mention IMGs, really.

Do you feel that the spirit of working in good faith with the college is really going to change that much?

Ms. Sungee John: We're very cynical, but anything on paper that can commit the two parties is a step in the right direction. I guess, as the saying goes, the proof is in the eating of the pudding.

Ms. Laurie Scott: Would you be able to send us the recommendations? I don't know if Hansard has picked them all up, but just for clarification on what changes you'd like to see, some recommendations to actually put some more beef into the bill for us. Do you think you could—

Ms. Sungee John: We can do that, yes. I was just trying to set up my laptop. I'm having glitches right now, but once that's done, we can forward those recommendations

Ms. Laurie Scott: That would be much appreciated. Thank you very much.

Ms. Sungee John: I agree with your point in terms of your concerns of this legislation being more superficial than actual substance, but it's a start. With the IMGs being, again, on the outside looking in, any start that can help them get somewhere is important.

Ms. Laurie Scott: Okay. We look forward to those recommendations. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott. This is, of the NDP, Ms. Cheri DiNoyo.

Ms. Cheri DiNovo: Hello, and thank you for your deputation. Certainly, we've heard a couple already today. We in the New Democratic Party feel that this is a pretty superficial bill as well—one we're going to support because, how could one not? At the same time, so much more is needed. I'm interested in seeing, as well, the written submission.

I gave an example to the former deputant and I would ask you to answer it as well. I have a constituent who is a surgeon who can't get work here because it would take him 10 years to get accredited. Right now he is working as a baker for about \$9 an hour and travels back to his home country of Iran for six months of the year to practise as a surgeon just to keep his family eating and in rent. This is clearly not what we want. How would you address that situation were you to be put in charge of the College of Physicians and Surgeons?

Ms. Sungee John: Certainly, Dr. Rasool made some points earlier in his presentation that the assessment process—at this point, IMGs can pass all the exams, they can score high marks, but the likelihood of even getting an interview or getting a placement in a residency all boils down to connections. Connections are critical. They can be as brilliant and as competent as the next physician, but not having that connection leaves them at a disadvantage.

Oftentimes, as you mentioned, they have other priorities. If they came here as immigrants they have to feed their family. Dr. Rasool would love to practise as a family doctor but has to support his family and work in a factory during the day to ensure that they survive, and he can also live in hope that he will one day be a doctor practising in this province.

Certainly, having a mandatory assessment process, as Dr. Rasool mentioned, forcing the college and various teaching hospitals that offer residencies—to mandate them to have a percentage of their spots that will be given to IMGs based on a combination of merit and other community involvements and not based on who you know and who can get you in because you have to know someone who teaches. That's often the case. In fact, some of the IMGs from Windsor who have succeeded have succeeded thanks to a mentor who is in the system. Without the mentorship, without mandatory assessments, without a fair, transparent and accountable structure, there is no way that there can be some democratization of the process.

Ms. Cheri DiNovo: Thank you very much.

The Chair (Mr. Shafiq Qaadri): We'll now move to the government side. Ms. Broten. Ms. Laurel C. Broten: Do you, Dr. Rasool, share the public perception that the College of Physicians and Surgeons is not allowing qualified internationally trained doctors to practise medicine in Ontario?

Dr. Ahmer Rasool: Yes, and the reason is—I can just quote you some of the examples. When immigrants come here, especially the physicians, they have to support their families. The immigration law itself says that you have to be in Canada for 1,095 days to get your citizenship, and it's very hard to go back and forth to your country and come back. That's one criterion of the selection, that if you're out of practice for more than three years, then you are not even considered.

Ms. Laurel C. Broten: Right. I have a few more questions for you. Do you think the registration process favours Canadian medical graduates?

Dr. Ahmer Rasool: I have not gone through that personally, but what people tell us is just the selection criteria—when you go for the interviews, even if you scored well in your MCC examinations, your application is not even considered and you are not called for the interview. So all we want is more transparency in the College of Physicians and Surgeons' criteria of selection and the way it is conducted.

Ms. Laurel C. Broten: Have you had a chance, either of you, to read the report that I drafted on removing barriers for international medical doctors?

Dr. Ahmer Rasool: Yes.

Ms. Sungee John: Yes. The group read that back in June, when we met earlier, when the proposed legislation was first announced.

Ms. Laurel C. Broten: Great. So do you feel as I do that assessments being undertaken more efficiently, better hands-on training and some practical experience, individualized bridging support and mentorship are the crux of what is needed specifically to assist those doctors who are already in Ontario but have, to date, been ineligible to practise here?

Dr. Ahmer Rasool: Yes.

Ms. Laurel C. Broten: Thank you very much for your advocacy.

Dr. Ahmer Rasool: You're welcome.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. John and Dr. Rasool, for your presentation on behalf of the IMGs and the Windsor Women Working with Immigrant Women group. Thank you very much.

Dr. Ahmer Rasool: You're welcome.

Ms. Sungee John: Thank you.

The Chair (Mr. Shafiq Qaadri): All right. We'll now move to our next presenter, if present: Mr. Mel Freedman.

Do we have Mr. Robert Milling of the RNAO?

Do we have Dr. Preston Zuliani, chair of the College of Physicians and Surgeons of Ontario?

Fine. We'll recess until 4 p.m., which is 20 minutes from now.

The committee recessed from 1538 to 1553.

MEL FREEDMAN

The Chair (Mr. Shafiq Qaadri): Colleagues, I'd invite you to reconvene just a little bit early, as our next presenter is now present, and I think we have more than quorum.

I now invite Mr. Mel Freedman to please come forward. He'll be presenting to us in his capacity, again, as a private citizen. Mr. Freedman, you have 10 minutes in which to make your presentation. The time remaining for questions and comments will be distributed amongst the parties. I invite you to begin now.

Mr. Mel Freedman: It's a pleasure to have this opportunity to present to the committee. My presentation focuses on the goals of a new international medical graduate mentorship program, IMGMP. The goal of this program is to establish a recognized body to facilitate the assessment and licensure of experienced international medical graduates who now are legally residing in Ontario. Another goal is to create a physician mentorship program for the IMGs that will have strict criteria for IMG mentoring, participation and evaluation, and government funding support. A third goal is to create a balance and a level of equity between two groups of physicians: foreign-government-sponsored physicians who are in this province on visas and have been admitted to residency programs, and non-funded international medical graduates residing in Ontario. A fourth goal is to create equity and balance between foreign doctors who receive an academic licence immediately to practise medicine at an Ontario medical school affiliated with a teaching hospital, and a foreign academic physician from a foreign medical school who is not governmentsponsored and is required to pass at least four examinations prior to possible licensure.

Objective of the proposal: This proposal will describe practical ways in which internationally trained physicians residing in Ontario can be instrumental in alleviating the severe physician shortage in Ontario, and utilize a currently wasted human resource of Ontario IMGs. The proposal advocates the establishment of an IMGMP, which will supplement the evaluation and orientation services of the Centre for the Evaluation of Health Professionals, also known as CEHPEA, and the Health-ForceOntario Access Centre. CEHPEA is able to provide a practice-ready assessment and post-graduate year-two entry program for post-graduate medical residents as well as a program entitled Orientation to Training and Practice in Canada. The proposed mentorship program will restore new equity and fairness to the existing provisions for licensing foreign-trained physicians.

Background: Although residency spots have increased, a very small number are going to foreign-trained doctors residing in Ontario who are citizens of Ontario. In 2005, 1,082 licences were issued to foreign medical graduates. Visa trainees from foreign countries with government sponsorship numbered 709 post-graduate certificates, 215 physicians received either academic licences or full practice licences, and the balance of 158 were foreign-

trained doctors living in Ontario who received limitedpractice licences with acceptance in a residency program at one of the medical schools. This figure of 158 is a very small proportion of the estimated 5,000 foreign physicians residing in Ontario, with a heavy concentration in Toronto, Hamilton, Kitchener-Waterloo and London.

What is needed is a more comprehensive approach to the problem. The diverse composition of the IMGs in Ontario needs to be examined. First of all, there are some physicians whose training is substandard and cannot be considered; I'm not referring to these individuals. Recent graduates of acceptable training programs recognized by the World Health Organization will need to complete the required examinations and residencies to be competent to practise. However, there is a number of physicians who have limited relevant experience of three to four years in their home country but who would need to be enrolled in a highly structured mentorship program or could become academic fellows before getting a full licence.

There is another group of many very proficient and highly experienced physicians with over 15 to 20 years' experience, who have worked in sophisticated health care systems. This group, as well, would only require a period of structured mentorship or probation prior to licensure for independent practice. One of the common features of this group is that many of these highly trained specialists periodically leave Ontario for about two or three months, go back to their home country and practise, and then come back again. So they are keeping up their skills, although in their home country.

1600

The intent of the IMGMP will be to take a second and more comprehensive approach to gaining licensure in Ontario and utilizing existing avenues in creating a new mentorship program for qualified IMGs. This second path would include four elements.

First, the path to gaining an academic licence should be broadened to include foreign physicians who are actually resident in Ontario, are citizens of Ontario and have academic credentials in their home country.

Secondly, the same residency positions available to foreign graduates and funded by foreign governments—examples of foreign governments would be Saudi Arabia and Libya—would be open to applications from Ontario residents and citizens.

Thirdly, a sophisticated mentorship or preceptorship program would be created. Such a program would enable qualified IMGs of variable experience who are not in the health care system an opportunity to be mentored by a community family physician or specialist and have a restricted licence. This program could target physicians who have many years of experience in health care systems similar to the Canadian system—the United Kingdom, France, Italy, Ireland, Israel and, I'm sure, other countries. It would be anticipated that the mentorship for this group of physicians be one to two years, followed by a period of limited licensure and probation.

Fourthly, all IMGs who have been successful in any of the three paths noted above will have to participate in some form of compulsory continuing medical education designed for foreign-trained physicians and developed by the six Ontario medical schools in association with the College of Physicians and Surgeons of Ontario, the College of Family Physicians of Canada and the Royal College of Physicians and Surgeons of Canada.

Structure of the mentorship: A senior community physician will sponsor and supervise the IMG—some form of payment needs to be given to physicians who sign up as supervisors and mentors, as they are now being paid in the province of Alberta today. A uniform training program will be designed and made available for the community supervisors. A liaison person will be assigned to the supervisors. The mentorship program would consist of graduated areas of responsibilities, as determined by CEHPEA and HealthForceOntario.

Methods of evaluation of the mentorship: The Ontario medical schools will be asked to share their protocols for assessment of residents. The assessment will include aspects of character, competency and medical knowledge.

Personnel required: The new body would need the usual administration and personnel office support to be able to keep track of all mentored IMGs. Possibly, the entire program for mentorship would be supported by CEHPEA and integrated as a total support program.

Finally, the role of the Association of International Physicians and Surgeons of Ontario: This is a group of 5,000 foreign-trained doctors who are not practising in Ontario. AIPSO would be a constructive voice in implementation of the project and could have a representative on the board of the IMGMP and be able to liaise with the CEHPEA. Possible roles include being a resource database for both IMGs and their supervisors; being a single voice to bring forward issues related to the program; being the avenue for initiating, organizing and evaluating CME; and disseminating information on the program to interested parties. Thank you.

The Chair (Mr. Shafiq Qaadri): On behalf of the committee, I thank you for your written presentation as well as for coming forward with your points today.

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I now invite Mr. Robert Milling, health and policy director of the RNAO, if he is available, to please come forward.

You have 20 minutes to make your presentation, with time remaining distributed among the parties.

Ms. Catherine Mayers: Good afternoon. My name is Catherine Mayers. I am a board member of the Registered Nurses' Association of Ontario. To my left is Kim Jarvi, and to my right is Rob Milling.

The RNAO is the professional organization for registered nurses who practise in all roles and sectors across this province. Our mandate is to advocate for healthy public policy and for the role of registered nurses in enhancing the health of Ontarians. We welcome this

opportunity to present to the Standing Committee on Social Policy our recommendations on Bill 97.

RNAO applauds any measure that acknowledges or addresses the need for access to an adequate number of heath care professionals. We believe that Bill 97 does this and is a helpful step forward.

Registered nurses have a lot at stake here because many of us have been working under difficult circumstances for many years. This is not sustainable. The root cause of the difficult circumstances was prolonged system neglect of nursing issues. In particular, employment opportunities in nursing lagged far behind population growth. Combined with an aging population with growing and complex needs, nurses started experiencing workloads that many found unbearable. Compounding the stress were mass layoffs of nurses in the later 1990s, which further increased the burden on the remaining nurses. Thousands of nurses left the province for work elsewhere or left the profession entirely, and enrolment in nursing schools plummeted. With a large number of nursing retirements on the horizon, the profession was facing a dangerous time in Ontario.

Halting this dangerous trend called for a massive effort, as pointed out in the Nursing Task Force report of 1999. The government of the day reversed its policy with respect to nurses and started rehiring them. It made a number of commitments to nurses, including the creation of 10,000 new positions. When the current government came to power in 2003, it committed to create 8,000 nursing positions in its first mandate. It promised 9,000 additional positions in its second mandate. Because nurses comprise the bulk of Ontario's health care professionals, this is a very crucial but massive undertaking, and it must be dealt with urgently. According to figures from the College of Nurses of Ontario, some progress is being made. Over the first three years of the government's first mandate, the nursing workforce rose by 6,501 and the share of RN employment that was full-time rose from 59% to 63%. However, we were alarmed to hear in the Minister of Finance's statement this past October 22 that the government was postponing its commitment to create the 9,000 nursing positions as well as 50 health care teams by one year. I find it quite ironic that a bill seeking to ensure access to health professionals is going to committee at the same time that much-needed nursing positions are being delayed.

Bill 97 acknowledges that it is in the public interest that Ontarians have access to adequate numbers of qualified, skilled and competent regulated health professionals. The bill would make it an obligation of the regulatory bodies to work with the government to ensure that access. Below, we discuss what that obligation should entail.

As I mentioned earlier, Bill 97 is a step forward, but it is not in itself a solution to the nursing shortage, which requires a comprehensive nursing strategy with recruitment and retention components. Such a strategy would include the following: creating enough nursing positions to meet population needs; supporting interdisciplinary

practice; allowing RNs to work to their full scope of practice; supporting healthy work environments; funding enough seats in nursing programs; and ensuring that there are sufficient faculty, facilities and preceptors to educate the nursing students who will renew the nursing workforce. Implementation of this strategy is the responsibility of the government and not of the colleges, which do not have the capacity to educate the needed nurses or to create the positions for them.

The government has committed to some key elements of a nursing strategy, and we will work with the government to ensure timely implementation of those commitments. With respect to internationally educated nurses, IENs, the RNAO has been a strong advocate in support of those who exercise their human right to migrate and choose to make Ontario their home. There must not be any systemic barriers to internationally educated nurses with permanent status in Canada from practising their profession and serving the public.

The IENs comprise an increasing share of the nursing workforce in Ontario. In 2005, the IENs accounted for 34.1% of all new RNs. Research shows that IENs face challenges at all stages of the process of moving into practice in Ontario. These include: difficulties and delays completing the application process to become licensed; required investments in upgrading and further education to become eligible to take the RN exams; difficulty writing the exam due to a lack of familiarity with Ontario nursing culture and with exam formats; and integrating into the nursing workforce. As a result, the pass rates for the IENs were much lower than for nurses educated in Ontario.

There are several existing programs that facilitate registrations of IENs in Ontario. The CARE Centre for Internationally Educated Nurses has had success in assisting internationally trained nurses to prepare for qualifying exams once they have met their academic requirements. A number of Ontario nursing schools offer bridging programs for IENs. For example, York University offers a 20-month program that enables internationally trained RNs to meet the current academic entry-to-practice requirements more quickly. The first class graduated with a bachelor of science and nursing degree in December 2006. The program also offers an extensive ESL component created for health professionals. The government must continue to support programs of this sort to ensure that we do not waste the skills of internationally educated health professionals.

While the RNAO's commitment to facilitating the practice of IENs in this province is clear, we are just as convinced that a nursing strategy must not resort to the international recruitment of nurses. We must not contribute to global health inequities and the human and economic costs of stripping vulnerable populations of access to health care professionals.

RNAO supports the World Health Organization, the International Council of Nurses and the Canadian Policy Research Networks in calling for ethical international recruitment guidelines within the context of a responsible national and provincial health human resource strategy. International recruitment is not an acceptable substitute for greater investments in nursing education, improved interdisciplinary work and a focus on workplace health that must be key components of a made-in-Ontario

nursing strategy.

The role of the colleges: The colleges' first duty is to ensure that regulated health professionals meet practice standards. In response to the bill, they would work with the government to quantify shortages and advise on strategies to address those shortages. They may be in a position to streamline procedures for internationally educated health professionals and remove unnecessary obstacles while still maintaining standards. They may also be able to advise the government on developing programs that would make it easier for internationally educated health professionals to meet requirements for registration in Ontario. But to repeat, relying on the recruitment of internationally educated health professionals is not a solution to the shortages of health professionals.

How many more RNs are needed in Ontario? There are different methods that could be used to determine the number of additional RN positions required. However, it is safe to say that most would not want Ontario's RN population ratio to fall below that of the rest of Canada, particularly given that Canada's ratio is considerably worse than it has been in the past. Based on the latest available data, Ontario would require more than 10,000 RNs to catch up with the rest of the country. At the very least, the 9,000 promised RN positions should be delivered as quickly as possible to enhance access to health care.

In conclusion, Bill 97 is a step forward in providing a mechanism for identifying the magnitude of the shortage or surplus in each health profession. However, the bill must not be interpreted as an obligation on colleges to water down standards to meet health human resource objectives, nor is it a substitute for a health human resource strategy, which remains the responsibility of the government to implement.

In closing, RNAO welcomes Bill 97 but remains deeply concerned about the contradictory message sent last week with the delay in the government's commitment to hire 9,000 nurses and deliver 50 more family health teams. We would urge the government to rethink its position and keep its original promise on track. Thank

you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Mayers. We'll have about three minutes per side, begin-

ning with the NDP.

Ms. Cheri DiNovo: Thank you, and thank you very much for all your hard work and for deputing before us. I'd like you to speak just a little bit about community health centres and nurse practitioners, because one of the motivators behind this bill—such as it is, in its one page, one line; it doesn't do much, but it's a tiny step forward—is the outrageous shortage that we have, for

example, of GPs. One of the deputants has raised the issue that in a sense more GPs are part of the solution, but also part of the solution are more CHCs and nurse practitioners. If you could just address that.

Ms. Catherine Mayers: Absolutely. The need for more RN- or more nurse practitioner-led clinics is vital. Nurses work very well with physicians, as they work well on their own. Actually, I would say that it's a combination of both: To increase the number of nurse-run NP clinics, which has been promised, although I'm not quite sure how soon this is going to happen, especially now with the economic downturn; and the 50 family network clinics, and utilizing RNs to the best of their scope, also utilizing physicians and other health professionals at the best of their scope, will certainly increase access to the Ontarian population.

Ms. Cheri DiNovo: Certainly we in the New Democratic Party are fully committed to making sure that those 9,000 nurses do come down the pike—to the best of our ability, at any rate. Thank you very much for deputing.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo. To Ms. Broten.

Ms. Laurel C. Broten: Thanks very much, and thank you for your thoughtful presentation and your advocacy on behalf of Ontario's nurses. Through you, back to those nurses, please thank them for the important role that they play in our health care profession and in our health care system.

I don't know whether you yourselves have had an opportunity to read the Report on Removing Barriers for International Medical Doctors that I drafted and we released some months ago, but I did want to acknowledge in your presence that the CARE Centre for Internationally Educated Nurses was acknowledged in the report as providing a wonderful example of the type of work that can be done when our colleges take a look at how you can prepare internationally-trained professionals to be practice-ready in Ontario. It's my understanding that the CARE Centre has about a 75% success rate on licensure exams, and I'm wondering if you can comment on how critical that really specific program of mentorship and training is to taking those who might not otherwise pass an exam, getting them ready and then getting that level of success rate. It's quite incredible.

Ms. Catherine Mayers: I think I'll ask Kim to answer that.

Mr. Kim Jarvi: I haven't seen the most recent figures for CARE for Ontario, but we're very grateful that it was acknowledged in your report. We did read it very closely, I assure you.

For the first year in the program, the success rate went from in the 40s to in the 80s. I don't know about subsequent years, but that's a tremendous improvement. It obviously was fixing a problem that was readily fixed. That's really great bang for the buck, so we're glad for the support.

Ms. Laurel C. Broten: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Ms. Mayers, I'd just ask to identify your colleagues for us for the purposes of recording for Hansard.

Mr. Kim Jarvi: It's Kim Jarvi, senior economist.

The Chair (Mr. Shafiq Qaadri): Thank you, and thank you, Ms. Broten. To the PC side.

Mrs. Elizabeth Witmer: Thank you very much. I had the distinct pleasure of working with the RNAO and setting up a task force which identified some of the needs and saw the creation, I think, of almost 12,000 new nursing positions which were badly needed. I guess I shared the shock of many people last week, if my phone and email are any indication, at the government now breaking its promise and giving no date whatsoever for moving forward with the 9,000 new positions that were promised. 1620

What I would like to hear from you, because this bill says nothing other than that the government will work with the colleges—end of statement. I've heard from nurses. I have to tell you, nurses are frightened. They have been in contact with me because they know that many people are nearing retirement and there's a message communicated here when the government says, "We're not going to hire these 9,000 people," people who are the backbone of the health care system. The public identifies nurses with health care. So I want you to share with me what you perceive the impact to be, because I think that whatever we can do to motivate this government to get this back on track needs to happen ASAP.

Ms. Catherine Mayers: Absolutely. Thank you for all of your work. We really appreciate you at RNAO.

I would say that more than the nurses are upset. The actual public is upset. There has been a public outcry at these 9,000 nursing positions that aren't being filled. These are not extra positions; these are positions that we need now, today. We were giving the government a little while to get them going, but we actually need them today. Our worry is: In a year from now, what is the economic situation going to be like? Is it going to be postponed yet another year? So I don't quite buy postponing it now.

What is the implication of these positions not being filled? It's decreased access to health care, increased wait times for surgeries because the nurses—it's not that there are no beds; there are no nurses to man the beds. So it is a very serious situation, and the RNAO is very displeased with the present government on their announcement last week.

Mrs. Elizabeth Witmer: Is there anything that you would plan to do in order to ensure—because I think you pointed out here somewhere that we're actually 10,000 nurses short as of 2006.

Ms. Catherine Mayers: Right.

Mrs. Elizabeth Witmer: Is there anything? I have been hearing about surgeries being postponed. Obviously, the new family health teams, nurse practitioners, emergency rooms—long-term care is having trouble right now hiring nurses, and we've got a growing and aging population. Is there anything that can be done in order to make sure the government realizes that this is critical, this hiring of nurses, if we're going to provide access to health care?

Ms. Catherine Mayers: Right now, we have a campaign going to write your MPP to discuss displeasure with the announcement of last week, and we'll see if we can get forward—and just continuing. I was in the media last week promoting the 9,000 nurses and showing our displeasure. So just more of what we do, what RNAO does, and—

Mrs. Elizabeth Witmer: We're certainly there with you, and I know the public is there too, because we've heard from them too.

Mr. Catherine Mayers: Yes, we have.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Witmer, and thank you as well, Ms. Mayers and your colleagues on behalf of RNAO.

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward: Dr. Preston Zuliani, the chair of the council of the College of Physicians and Surgeons of Ontario, and colleagues.

As you've seen, Dr. Zuliani, you have 20 minutes in which to make your presentation. Questions and comments will be distributed amongst the parties afterward. I'll just have you introduce yourself and perhaps identify your colleagues for the purposes of Hansard recording. I would invite you to begin now.

Dr. Preston Zuliani: Thank you very much. My name is Preston Zuliani and I'm a family doctor practising full-time in general practice in St. Catharines. I'm president of the College of Physicians and Surgeons of Ontario. With me today to my right is Louise Verity. She is the college's director of policy and communications.

We are pleased to be here to present on behalf of the college on Bill 97, Increasing Access to Qualified Health Professionals for Ontarians Act.

At the outset, I would like to emphasize that the college is a body with a public-interest focus. It is important to note that the college's mandate is not to train or supply doctors for the province but to ensure that those who are practising medicine in Ontario are competent. As the self-regulating body for the medical profession, the college ensures that all doctors who practise in Ontario meet the standards for training and experience.

While the college is committed to ensuring that there are no unnecessary barriers to registration for those seeking to practise medicine, our first and foremost priority is to protect the public interest and to ensure patient safety.

In our presentation, we will first outline the college's interpretation of Bill 97, our concerns regarding its current wording, and a proposed amendment which we believe reflects the intent of the legislation.

We will also outline the progress the college has made in registering ever-increasing numbers of doctors to serve the people of Ontario, including international medical graduates, and also our work with other stakeholders to register even more doctors; some recent changes in our registration policies that will simplify registration of doctors trained in other Canadian provinces and the US; as well as our ongoing efforts to facilitate the registration of more international medical graduates while preserving a high professional standard.

The college supports the registration of all qualified IMGs. However, we would like to emphasize that there are two components to Bill 97. The first is to increase the number of health care professionals; the second—and central to the mandate and role of the regulatory colleges—is to ensure that these health care professionals are qualified. The pursuit of one cannot come at the cost of the other.

The college's first priority is, and must remain, the safety of the public. Ontarians want more doctors. They also want the comfort of knowing that they're being cared for by qualified doctors who meet Ontario's standards of practice.

We understand that the bill was developed to convey the government's objective of increasing the access of Ontarians to qualified health professionals. We support the spirit and intent behind the proposed legislation. However, the legal implications of the legislation on health colleges are of significant concern. It appears to impose a new duty on health colleges to ensure that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated health professionals.

As noted earlier, the college is not in the business of making or training doctors. We cannot simply open up the tap and increase the supply of doctors. When it comes to physicians, others—like the government of Ontario, medical schools, as well as many other stakeholders—all play a critical and arguably more central role in ensuring an adequate supply of physicians than the college.

For instance, it is the medical schools that provide education to future doctors, set the curriculum, determine the number of students who will be admitted etc. The number of medical schools in Ontario depends, to a large degree, on provincial government funding. The availability of residency positions is determined by the medical schools, government funding, and the availability of hospital-based educators. The examinations to secure specialist titles are set by the Royal College of Physicians and Surgeons of Canada. The credentials evaluation and assessment of international graduates are undertaken by the Medical Council of Canada and the Centre for the Evaluation of Health Professionals Educated Abroad. These are just a few of the organizations that are involved in training physicians. It is inappropriate and impractical to impose a duty or an obligation on health colleges to achieve outcomes that are outside their control.

We believe that the government could achieve its objectives through a slightly different approach. We suggest that instead of imposing a new duty on health colleges, Bill 97 should amend the Regulated Health Professions Act to add an additional object for each college. Specifically, we recommend that instead of amending section

2 of schedule 2 under the RHPA, the bill should amend section 3 as follows:

"3(1) The college has the following objects:

"12. To work in consultation with the minister towards ensuring, as a matter of public interest, that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated health professionals."

Increasing access to physicians has been a college priority for many years. For many years, the college has been a leader in working with our partners—the government of Ontario, medical schools, national education bodies etc.—to find new ways of enhancing patient access to physicians. We have initiated a number of task forces, involving multiple stakeholders, to look at ways of enhancing the number of doctors without compromising standards.

1630

Many of our recommendations have been implemented and have resulted in an increase in the number of residency positions available and ever-greater numbers of international graduates being registered in Ontario. In fact, over the past 10 years, we have consistently registered more new doctors each and every year, and a growing proportion of these are international medical graduates. Let me provide you some examples from our 2007 registration report:

Last year, the college issued 3,279 certificates of registration. Never before have we even approached 3,000.

For the fourth straight year, more certificates were issued to international medical graduates than to our own Ontario graduates.

Twenty-five per cent of independent medical certificates, or one out of every four, went to international medical graduates. The number of independent practice certificates issued to IMGs was the highest in more than 20 years and marked the seventh straight year of increasing issuance of these certificates to international graduates.

As a direct result of new college policies and programs developed in collaboration with many stakeholders, and in some cases funded by government, well over 1,000 applicants have been issued a practice certificate who would not have been licensed previously.

The college has been diligently seeking to, and succeeding in, registering more doctors for the people of Ontario. We are also continually seeking new ways to streamline our registration process to facilitate the registration of international medical graduates. As demonstrated by our most recent registration results, we have also had success in this area.

The college continues to look for additional ways to register even more doctors, including IMGs. However, we cannot do this alone. The training and registration of physicians and surgeons involves a variety of organizations, and these include government, medical schools, hospitals, credentials assessment organizations, the College of Family Physicians of Canada, the Royal College of Physicians and Surgeons of Canada, the Canadian Medical Protective Association—and I could go on and

on. To increase Ontario's supply of doctors, all the agencies must pull together.

The college has taken on a number of initiatives to work collaboratively with our partners. Amongst other things, the college has led a multi-stakeholder group called the physician resources task force. This task force has been meeting over the summer months, and our work has already borne fruit. Just in September, the college approved four new pathways to registration. These new policies, which will come into effect on December 1, make it possible for doctors fully licensed and practising in the United States or other parts of Canada to become registered in Ontario without further training or examinations. Our colleagues at HealthForceOntario believe that these new policies will make it much easier for Ontario to attract physicians from other provinces and especially from the United States.

The college is also in the process of consulting on two additional routes to the registration of foreign graduates trained outside of Canada and the United States. I won't go into the details, but could do so if you choose.

The college is consulting broadly on these proposals and will continue to work to refine our registration process, as well as find additional ways of enhancing routes to licensure. Our consultation includes a number of stakeholders, including MPPs as well as provincial bodies like the Human Rights Commission and the Fairness Commissioner.

Increasing the number of health care professionals is an important but long-term and complicated goal. As there are many professions working in the health care system and many players within each profession, the college renews its recommendation that the government establish an independent health human resources planning body. We feel this is particularly critical given the direction of this legislation.

In closing, I'd like to reiterate the college's support for the goal of Bill 97, that of increasing the number of health professionals who are qualified to serve the people of Ontario. However, we believe that this goal could be better achieved by amending the bill so that it emphasizes that working collaboratively with the health minister on this is an object of each health college under the Regulated Health Professions Act.

The college has and continues to stand ready to work with all of our partners to help ensure that Ontarians have access to qualified regulated health professionals.

Thank you for the opportunity to present to the committee. We would be pleased to answer any questions you have.

The Chair (Mr. Shafiq Qaadri): Thank you. We have about two minutes or so per side. Ms. Broten.

Ms. Laurel C. Broten: Just to clarify, you're prepared to work in consultation with the minister toward ensuring, as a matter of public interest—and the sentence continues—but you're not in agreement that a positive duty be imposed upon the College of Physicians and Surgeons to work with the minister?

Dr. Preston Zuliani: No. We definitely want to work with the minister on this; it's very important. We have

concerns that if it becomes our duty to make sure that there are enough doctors and we don't the ability to do so, we could be challenged legally in some of the things we're doing.

Ms. Laurel C. Broten: The phraseology of the bill is, "It is the duty of the college to work in consultation with the minister to ensure, as a matter of public interest, that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated health professionals." And you are in agreement with working with the minister?

Dr. Preston Zuliani: Definitely in agreement with working—

Ms. Laurel C. Broten: And we have successfully undertaken that work over the summer, to introduce new pathways following the introduction of Bill 97. Correct?

Dr. Preston Zuliani: Absolutely.

Ms. Laurel C. Broten: Do you agree that the current registration process for doctors is rooted in a process established to favour Canadian medical graduates and that ultimately it is substantially unfair when it comes to assessing the qualifications and experience of internationally trained doctors?

Dr. Preston Zuliani: No, I wouldn't agree with that. The centres of medical training in different parts of the world are radically different. For us to be able to assess each medical program in 100 countries is very, very difficult. We have come up with some innovative ways to try to get around that.

Ms. Laurel C. Broten: Do you agree that internationally trained doctors face a number of barriers, including challenges with respect to credential recognition, misinformation regarding certification and registration?

Dr. Preston Zuliani: As I said, we've licensed more international graduates than Ontario graduates for four years in a row. We are doing our very best to break down barriers, and you can see, from the new proposals that will come into effect on December 1 and our suggestion for new pathways for other graduates, that we'll be going much further.

Ms. Laurel C. Broten: Do you agree that international medical graduates face different barriers than our Canadian medical graduates?

Dr. Preston Zuliani: They definitely have different barriers, yes—language, culture, training etc.

Ms. Laurel C. Broten: But not with respect to credential recognition or certification?

The Chair (Mr. Shafiq Qaadri): With respect, I will need to intervene there and offer the floor to the PC side. Mrs. Witmer.

Mrs. Elizabeth Witmer: I appreciate the presentation that you've made. I think sometimes we lose sight of—and I guess I say this based on having been a health minister—what the priority of the colleges was intended to be, and that is to protect the public interest and to ensure patient safety. I consider that to be a very, very significant responsibility. Certainly, I would share some of the concern about imposing this additional duty because I do

believe the colleges are not capable of making or training doctors. I think it has been well pointed out here that it's dependent upon a lot of other people, including the government; the number of medical spaces we have in the province of Ontario; and certainly some of the other partners. So, I think in working co-operatively, we have a responsibility to co-operate, one with the other. But I think as the nurses pointed out, it's not something for any one college or one group, so to impose this type of an obligation to achieve outcomes outside somebody's control is really quite unrealistic.

1640

Having said that, what more do you think you could do as a college—and I understand that you have made some progress in recent months, and we're going to be seeing some different pathways—over the short term? I hear from IMGs, but I also hear, increasingly, concern from people who have been educated in Ontario and then go away to medical school and try to come back. How can we accommodate those two groups of people that are having difficulty?

Dr. Preston Zuliani: One of the pathways we're working on is to simplify registration requirements for physicians who have trained in certain jurisdictions recognized by the royal college of Canada; for example, Australia, Hong Kong, the Republic of Ireland, New Zealand, Singapore, Switzerland, South Africa and the UK, so that a pathway, which is in development now and is open for consultation—we're waiting for feedback—will allow us to bring these doctors into the country very easily. There's another pathway we're working on for doctors who are trained in countries where we don't have as good a confidence in the medical systems, and we're trying to find creative ways of bringing them up to speed and bringing them here as well.

The Chair (Mr. Shafiq Qaadri): Thank you, Mrs. Witmer and Dr. Zuliani. Now to the NDP. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Dr. Zuliani, and thank you for the clarification of what your role is. We heard a deputant earlier who talked about another organization, the Association of International Physicians and Surgeons of Ontario. Apparently there are 5,000 medical doctors, which was news to me, who are trained but cannot practise, and who are residents and citizens of Ontario. Clearly, we have a GP shortage in Ontario, among other issues with our health care system. So I guess I'm going to lead off where my colleague began, and that is to say: What suggestions do you have, then, for ways in which we can bring the two parties together?

Dr. Preston Zuliani: The difficulty there is, someone who's been out of practice for 10 years, five years, 20 years, someone who's trained in a totally different system, would probably flounder in our system. What they need is further training and more residency positions. So if you could open up more residency spots, take those doctors and send them back to school for a couple of years to bring them up to speed, I think that would be wonderful.

Ms. Cheri DiNovo: How would we get more residency spots?

Dr. Preston Zuliani: That would be a government initiative to open more residency spots so that these doctors could go back and be updated.

Ms. Cheri DiNovo: So it comes full circle back to the Ministry of Health, then?

Ms. Louise Verity: There's another option as well that we're exploring, and that is looking at other—the reality is that not every internationally trained physician who is currently in Canada is ever going to be able to practise, and that's simply a reality. So some of the other initiatives that we are considering, together with government, are looking at—we have the physician assistant program, which is certainly under way now, and there are some others as well. There is some discussion about a physician associate position as well, and so that's certainly the direction that we also need to go in. But it does become increasingly difficult to license physicians who have not practised for a significant amount of time.

I think another big part of this as well is, we do, as a provincial college, rely on the national education bodies to do the assessment of which jurisdictions where the training is appropriate to what occurs here in Ontario and in Canada. The royal college, which is the body that certifies what we would describe as specialists, has actually not been doing this—they have not been keeping up in this particular area for some time.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. DiNovo, and thank you to you, Ms. Verity and Dr. Zuliani, for your presentation and written submission on behalf of the College of Physicians and Surgeons of Ontario.

MUKARRAM ALI ZAIDI

The Chair (Mr. Shafiq Qaadri): We'll now proceed directly to our final presenter of the day, Dr. Mukarram Ali Zaidi, who I understand is on teleconference. Dr. Zaidi, are you there?

Dr. Mukarram Ali Zaidi: Yes, I am here.

The Chair (Mr. Shafiq Qaadri): That's great. And if I might just ask that everyone increase their volume so we can proceed.

You will have 10 minutes, Dr. Zaidi, in which to make your presentation, and any time remaining will be offered to the parties for questions. I invite you to begin now.

Dr. Mukarram Ali Zaidi: First of all, thank you very much for giving me the opportunity to present my ideas. I am an international medical graduate. I did my MD in 1996 and then I came to Canada and did my master's in epidemiology at the University of Toronto. There, I extensively studied population health, risk assessment and management at U of T. My areas of interest were the Canadian family health care system and the integration of international medical doctors into the health care system. I have provided three documents to everyone. One is a reference document, which is my final submission for a course; one is a three-page document, Pathways to Medical Practice for International Medical Graduates and A

Model to Effectively and Efficiently Deliver Health Care to Canadian Citizens. Do you all have that?

The Chair (Mr. Shafiq Qaadri): Yes, it has been distributed. Thank you for your, I think, more than 50 pages of submissions.

Dr. Mukarram Ali Zaidi: Perfect. I would like you to focus on just the three pages and the one that says, "Pathways to Medical Practice." I would like to start on the second page, where it says, "Problem Identification."

At this point, we have severely insufficient human health resources. Currently, we have a shortage of 2,200 physicians in Ontario, and two million patients are without family health care physicians. The irony of the matter is that we have 4,000 international medical graduates in Ontario, and just recently, 946 eligible international medical graduates who had applied to the Canadian Residency Matching Service were not matched. On top of it, which is really sad, 121 residency spots that were paid for by the government and available were left empty. From the previous year, there were 154 spots left empty, and so it just goes on and on.

The myth is that international medical graduates are not passing the exam and are not eligible to work in the health care system, whereas the current stats from the Canadian Residency Matching Service show that 946 eligible candidates who had passed all the exams, TSE and TOEFL—they can speak English properly—were not matched and the spots were left.

Point C: Only 27% of the international graduates—353 out of 1,300 international medical graduates—were matched in the system, and I was one of them. But 72% of international medical graduates—that's 946 graduates—were not matched. What I am advocating on behalf of all the other international medical graduates is that an international medical graduate who passes MCCEE, QE1 and QE2 and the CE, which is the clinical exam, should be given at least a clerkship, a residency, a practice reassessment or some kind of system that can adopted into the health care system.

Second, all the 946 medical graduates who applied never received a letter saying why they were not eligible for residency; they just get a letter that they did not match. There's no system of feedback saying that if you want to do internal medicine, you need to go back and practise medicine for six months so that we can see that you have sharp skills, or something like that. There's no system that feeds back with the thought of making them more eligible candidates.

Third, there are spots, but we need to increase the spots for clerkship, for residency—PGY-1, 2 and 3—and then practice-ready assessment spots.

Fourth, in 2004, the Ontario government was giving preference to international medical graduates living in Canada and not to international medical graduates coming from outside Canada. We need to go back to that.

The next page is my solution, which is a program action logic model that is used by the federal government as well for all their projects. I had made up the "Path-

ways to Medical Practice" figure in different colours, but I understand you have a black-and-white copy.

I have developed that model in a way that is costeffective. Money that is invested in the program would be a loan, like OSAP to students. The input is international medical graduates who have their degrees with them and have passed all these exams. What we need to provide is funding, in the form of a loan to them.

I have separated MDs and specialists. These are those who come in and don't have a fellowship. They may have practised for one to 15 years, but with no fellowship exam passed.

We start the program, which I will talk about, and expand existing seats. The immediate output would be that we would get allied health professionals. As you know, a doctor who has not passed all those exams can get into a nursing program and do the final year and become an RN, and, in the same way, become a lab technician in different programs.

1650

The second stream is physician and surgical assistant. There were 35 taken last year. That was encouraging, so this time, they took in 150 more. This way, we can take international medical doctors into the system and help the system as well. They're not paid at the level of doctors, so again, it's cost-effective, and then these doctors are getting back into the system.

The third option is like what we do in dental school. What happens is that if an international dentist comes to Canada, they have to write the exams. Once they complete all those exams, they are taken into the third and fourth year of dental school. We can also apply the same model to medical school to increase the clerkship quota, which we started a few years ago, but Ontario stopped it.

The intermediate result would be, which is my fourth program, that we increase the residency spots of PGY-1, PGY-2 and PGY-3. We have the residency spots, but what happens is that we give them to international doctors coming from other countries. Their countries provide the funding, so they come to practise on Canadian patients and then they go back to their own countries. So we lose in all ways. If the government funds those positions, the doctors will be willing to take loans and do their residency, and once they become a doctor, they pay the government back. In this way, we have the residency spots—it's not that we have to create those spots; the spots are there. It's a cost-effective method that we are not throwing a lot of money into; we're giving loans to international doctors and they're going to pay us back.

Someone who has practised more than five years should not be taken at the PGY-1 level; they should be at PGY-3 or PGY-4. The Ottawa Hospital just got a few more PGY-2s and PGY-3s.

The last one is that an international medical doctor who has passed the fellowship exam and has experience should be dropped into the practice-ready assessment pool, which is my last stream. That model has been really successful in community hospitals, and doctors in the community can really help out. These models are really

working well in the west side of the country, where a doctor takes an international medical graduate and practises with them for three years. Once they're satisfied, they give them a licence to practise.

All the five outcomes are not really expensive; they're cost-effective, and what we get are more doctors. Just practically, we have 900 doctors who are eligible to get into residency and become doctors. Instead of delivering pizza, they can deliver babies.

That's the end of my presentation.

The Chair (Mr. Shafiq Qaadri): Thank you, Dr. Zaidi. We have 20 seconds each. With the PC side, Mrs. Witmer.

Mrs. Elizabeth Witmer: I would like to congratulate the doctor. That was an outstanding presentation, and I look forward to reading your paper. You can be assured that we'll certainly try to incorporate some of these recommendations; they're outstanding.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Witmer, Ms. DiNovo.

Ms. Cheri DiNovo: I just wonder—I would agree—what the response has been from the Ontario College of Physicians and Surgeons and the Royal College of Physicians and Surgeons of Canada. Quickly.

Dr. Mukarram Ali Zaidi: Sorry?

Ms. Cheri DiNovo: Have you run your plan past the College of Physicians and—

The Chair (Mr. Shafiq Qaadri): Ms. DiNovo, we probably have to intervene somehow. To the government side.

Ms. Laurel C. Broten: I will just thank you very much for your presentation.

The Chair (Mr. Shafiq Qaadri): Dr. Zaidi, on behalf of the committee, we thank you for your deputation, as well as your very elaborate written submission. Thank you very much.

Dr. Mukarram Ali Zaidi: Can I have one more minute, please?

The Chair (Mr. Shafiq Qaadri): Yes.

Dr. Mukarram Ali Zaidi: I would just like to say that I can work with this committee or someone else to emphasize my program and give a practical blueprint—

The Chair (Mr. Shafiq Qaadri): Thank you very much, Dr. Zaidi.

Ms. Laurel C. Broten: Just before everyone runs off, I want to raise an issue that we have not landed at, with respect to subcommittee. We said that we would deal with it at the termination of today's conclusions, and that's with respect to our instructions to research about what we might like to see back from them and a determination of the date for clause-by-clause hearing of this bill.

I would propose, on behalf of the government, that what we ask research to provide us with is quite limited in that it would be limited to a list of amendments proposed by the deputants today rather than a holistic analysis of the submissions made, and that we have clause-by-clause hearings of this bill set at the next day

that the committee meets, which would either be November 3 or 4.

Mrs. Elizabeth Witmer: We've had this discussion before. I'm not sure why the government isn't prepared to carefully analyze the written submissions that are not going to be received by us until end of day on Thursday. I think one of the concerns I have is that this bill is one sentence. I think it's the only opportunity that people have had for some time to take a look at this issue. For example, I'm quite impressed by this last presentation. I think there's a lot of information there that I'd like to carefully take a look at. There was a paper submitted. I'd like to make sure that the research people go through each one of the written submissions and identify for us what the recommendations for changes that are made, but more importantly—I think it's really important—it would be helpful to the government to also identify the current obstacles that there are in this system to health professionals having an opportunity to practise in the province of Ontario.

If you put both of those together, it would help the government of the day to move forward, because perhaps there are things that could be done in a relatively efficient and quick manner. But I would propose that we set aside—and obviously we don't need any longer than one day—November 17 for this committee to meet, and in the one day complete the clause-by-clause and send it forward.

The Chair (Mr. Shafiq Qaadri): Fine. Just to, first of all, remind the committee, the deadline for external written submissions is Thursday, October 30 at 5 p.m., as you've agreed to in our subcommittee.

I would invite the committee to reach a consensus; otherwise it will be put to a vote. Ms. DiNovo, if you have any comments.

Ms. Cheri DiNovo: I would defer to our health critic, France Gélinas, but certainly Mrs. Witmer's comments made some sense to me. I would like to see that report as well.

Ms. Laurel C. Broten: Certainly, it is the view of the government that it is imperative, and we absolutely will examine all of the thoughtful submissions that have come forward. The examination of many of the submissions, including that of the last presenter, will be facilitated upon the execution and the passing of this bill, if it does pass in the Legislature, and the imposition of a duty of the college to work with the province. So I would encourage us to move with respect to a report whereby we would identify those amendments that have been suggested to the bill itself and that we can do that on receipt of written comments on October 30, and that the bill could be returned to clause-by-clause on November 4.

The Chair (Mr. Shafiq Qaadri): The volley continues. Mrs. Witmer, if you have any suggestions or comments.

Mrs. Elizabeth Witmer: Do you know what? For a government that talks about democracy and input from the public, I find it unbelievable that they are not prepared to allow for people to present written submissions

which we actually would hopefully have an opportunity to read.

I guess one of the things that concerns me the most is that when I come in here for clause-by-clause, I have dumped on my plate submissions that have come in and I never have an opportunity to read them in their entirety. I'm not sure what the hurry is. As I say, we can get it done on Monday, November 17. It would give us ample opportunity to review whatever submissions we receive up until next Thursday.

It will take one day. Certainly, when we go into third reading, I don't think it's going to take much more time than that either. This bill isn't going to take too much longer once it does come back. We don't have any plans to hold it up.

1700

The Chair (Mr. Shafiq Qaadri): Thank you, Mrs. Witmer.

I need two dates to agree to today, and one is, based on the final date for submissions of October 30, when would committee members like the research report? Then, of course, there's the official date for clause-by-clause consideration.

Ms. Laurel C. Broten: I would propose that following today's committee, it would be appropriate that the submissions today with respect to proposed amendments be provided to committee members by October 30, at the same time as any written submissions be provided directly to members, and that a summary of written submissions be provided to the committee on Monday, November 3, if there are proposed amendments, and that we deal with clause-by-clause on November 4—four business days.

We are anxious to get moving and to continue our work with the college in this regard.

The Chair (Mr. Shafiq Qaadri): Questions and comments?

Ms. Cheri DiNovo: I would just ask Ms. Broten if perhaps she could give an explanation for why the hurry. I haven't really heard that explanation in detail. It seems that for a government that is quite ready to take its time on other matters, this is being rushed. So I'm just interested in why.

Ms. Laurel C. Broten: I certainly would not suggest that a bill that was introduced in June and has been out for consultation for many months—to date in our submissions, today, we had one proposed amendment come forward. As many have said, the bill is one page long. It is a foundational structure to work that the government wishes to do, wants to build upon, and I think it is imperative that those individuals who have waited for access for many, many years be seen to have this Legislature standing behind them. Bill 97 is an important foundational step to that work.

The Chair (Mr. Shafiq Qaadri): Mrs. Witmer, then Ms. DiNovo.

Mrs. Elizabeth Witmer: Regardless of when the bill was introduced, there was no notification or request for people to come forward and attend hearings or make

submissions until late last week. There has been little in the way of opportunity, and we all know that sometimes groups of people come together to make presentations. So you're not giving people a lot of time to prepare submissions and then give them the time and the consideration.

It was last week that you first asked for submissions, with a very short timeline given to people to respond. Although it was introduced in June, we didn't invite submissions until late last week, when it was placed in the newspaper ads. I'm not sure why we're now hurrying, because the reality is—you know what?—people haven't had a lot of time and haven't received a lot of notification. It seems as though somebody's trying to push this through—maybe it's the foreign-trained professionals—before they understand that there is an opportunity for them to exercise their voices and to get their views on the table.

I would further add that for many of these people—I know from personal experience; my parents were immigrants—it takes them a long time to put their concerns in writing. So I'm not sure why, if this bill is intended to help facilitate the entry into practice of foreign-trained professionals, we are not prepared to give them the opportunity to put their views on paper and respectfully, I would say to you, read their submissions and actually hear what it is they're telling us. There are a lot of people out there who have stories to tell, and I think we have an obligation to listen. I don't know what the haste is right now.

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments?

Ms. Laurel C. Broten: I'd like to make one final comment, and then I will call for a vote on this matter. Mrs. Witmer's comments are speculative in nature. We ran ads in major daily papers all across the province, we have had our committee hearings, and our government has worked closely with those individuals—

Mrs. Elizabeth Witmer: When did you do the ads? Last week.

Ms. Laurel C. Broten: —and individuals have sought to come forward to tell us their stories. They have been telling these stories for decades, and it is time for action.

The Chair (Mr. Shafiq Qaadri): If I'm detecting non-consensus, I will require the committee to vote on both these issues. The first is the summary of report due on October 30, which I just remind the committee is also the same deadline for written submissions. Is that correct, Ms. Broten?

Ms. Laurel C. Broten: That we would have a summary with respect to those statements and depositions made today by October 30, be provided written comments in their extensive form, should they arrive from those individuals, and a summary of those written submissions by November 2.

Mrs. Elizabeth Witmer: Recorded vote.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote unless there are any questions or comments.

Ms. Laurel C. Broten: Oh, sorry, Chair. Monday, November 3.

The Chair (Mr. Shafiq Qaadri): Monday, November 3; fair enough.

Ayes

Broten, Dhillon, Jaczek, Ramal, Rinaldi.

Nays

DiNovo, Witmer.

The Chair (Mr. Shafiq Qaadri): I declare that proposal carried.

We'll now proceed to the vote on the clause-by-clause date as of Tuesday, November 4.

Again, a recorded vote.

Ayes

Broten, Dhillon, Jaczek, Ramal, Rinaldi.

Nays

DiNovo, Witmer.

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments from committee members? Seeing none, we are adjourned till Tuesday, November 4, for clause-by-clause consideration.

The committee adjourned at 1709.

CONTENTS

Monday 27 October 2008

Bill 97, Mr. Caplan / Loi de 2008 visant à accoître l'accès des Ontariennes et des Ontariens aux professionnels de la santé qualifiés, projet de loi 97, M. Caplan . SP-383 Sickle Cell Association of Ontario
Dr. Bob Frankford; Ms. Lillie Johnson
Office of the Fairness Commissioner
Dr. Jean Augustine, commissioner
Mr. Murray Rubin SP-388
Windsor Women Working with Immigrant Women
Ms. Sungee John; Dr. Ahmer Rasool
Mr. Mel Freedman SP-392
Registered Nurses' Association of Ontario
Ms. Catherine Mayers; Mr. Kim Jarvi
College of Physicians and Surgeons of Ontario
Dr. Preston Zuliani; Ms. Louise Verity
Dr. Mukarram Ali Zaidi

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke-Lakeshore L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)

Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

M^{me} France Gélinas (Nickel Belt ND)

Mr. Lou Rinaldi (Northumberland-Quinte West L)

Mrs. Elizabeth Witmer (Kitchener-Waterloo PC)

Also taking part / Autres participants et participantes

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer, Research and Information Services

SP-15





SP-15

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Tuesday 4 November 2008

Standing Committee on Social Policy

Increasing Access to Qualified Health Professionals for Ontarians Act, 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mardi 4 novembre 2008

Comité permanent de la politique sociale

Loi de 2008 visant à accroître l'accès des Ontariennes et des Ontariens aux professionnels de la santé qualifiés

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

Service du Journal des débats et d'interprétation

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Tuesday 4 November 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Mardi 4 novembre 2008

The committee met at 1625 in committee room 1.

INCREASING ACCESS TO QUALIFIED HEALTH PROFESSIONALS FOR ONTARIANS ACT, 2008

LOI DE 2008 VISANT À ACCROÎTRE L'ACCÈS DES ONTARIENNES ET DES ONTARIENS AUX PROFESSIONNELS DE LA SANTÉ OUALIFIÉS

Consideration of Bill 97, An Act to increase access to qualified health professionals for all Ontarians by amending the Regulated Health Professions Act, 1991 / Projet de loi 97, Loi visant à accroître l'accès des Ontariennes et des Ontariens aux professionnels de la santé qualifiés en modifiant la Loi de 1991 sur les professions de la santé réglementées.

The Chair (Mr. Shafiq Qaadri): Colleagues, I welcome you to consideration of clause-by-clause for Bill 97, An Act to increase access to qualified health professionals for all Ontarians by amending the Regulated Health Professions Act, 1991.

Are there any general comments or concerns the committee would like to have voiced before we begin clause-by-clause consideration? Seeing none, I'll now proceed and invite the PC caucus to present motion 1.

Ms. Laurie Scott: I move that section 2.1 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in section 1 of the bill, be struck out and the following substituted:

"Adequate number of professionals

"2.1 It is an object of the college to work in consultation with the minister towards ensuring, as a matter of public interest, that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated health professionals."

The Chair (Mr. Shafiq Qaadri): Thank you, Ms.

Scott. Would you like to make any comments?

Ms. Laurie Scott: This was certainly brought forward by the College of Physicians and Surgeons in respect to what they feel are their obligations to make sure that their professionals have adequate qualifications. It's really up to the ministry, which has the purse strings, to dictate the number of doctors and the funding that goes with that and the spaces for medical school. So it was brought forward for those reasons.

The Chair (Mr. Shafiq Qaadri): Any further comments or questions?

Ms. Laurel C. Broten: I'm pleased to speak on behalf of the government with respect to the motion. The government does not support the motion. We believe that working with the minister to ensure an adequate supply of health human resources in the province should be a duty of the colleges and not one object among others. We think the critical component of Bill 97 is the implementation of a new duty of colleges and that is for the first time for them to work in consultation and in partnership with the ministry in elevating the importance of human health resources to the level of a duty.

The Chair (Mr. Shafiq Qaadri): Any further questions or comments? Seeing none, we'll proceed to the vote. Those in favour of PC motion 1? Those opposed? I declare PC motion 1 to have been defeated.

I invite presentation now of PC motion 2.

Ms. Laurie Scott: I move that section 1 of the bill be struck out—

Mr. Dave Levac: Point of order: My experience on committees just wants me to speak to this as a question of clarification. Is this in order if the section is not open to the bill?

The Chair (Mr. Shafiq Qaadri): Not being a clairvoyant, Mr. Levac, I would need to actually hear the motion before I can rule whether it's in order or not.

Mr. Dave Levac: So it's officially got to be put on the record before we can make a decision.

The Chair (Mr. Shafiq Qaadri): Please proceed, Ms. Scott.

Mr. Dave Levac: I see. So that means that all those years of committee work have not paid off because I should have known better.

The Chair (Mr. Shafiq Qaadri): I know you're new here, but we'll let Ms. Scott proceed.

Mr. Dave Levac: Just thought I'd ask.

Ms. Laurie Scott: I move that section 1 of the bill be struck out and the following substituted:

"1. Subsection 3(1) of schedule 2 to the Regulated Health Professions Act, 1991 is amended by adding the

following paragraph:

"12. To work in consultation with the minister towards ensuring, as a matter of public interest, that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated health professionals." The Chair (Mr. Shafiq Qaadri): At this moment, I will have to intervene, rule out debate and also rule this particular PC motion out of order, specifically citing the rule on admissibility of this amendment that proposes to amend a section of the schedule of a parent act that is not before the committee. Of course, a deeper explanation, if needed, is available from our colleagues here.

Mr. Dave Levac: I knew that.

The Chair (Mr. Shafiq Qaadri): With that, I would declare that motion out of order.

Are there any further motions to be presented before this committee? Are there any further questions or comments with regard to today's proceedings from the committee? We'll proceed to the vote.

Shall section 1 carry? Carried.

Is there any discussion on sections 2 and/or 3? Seeing none, shall sections 2 and 3 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 97 carry? Carried.

Shall I report the bill to the House? Carried.

Are there any further questions or comments for today's proceedings?

Mr. Dave Levac: I offer my birthday greetings to my colleague Helena Jaczek, MPP, for tomorrow. Happy birthday.

The Chair (Mr. Shafiq Qaadri): I assume she wishes that to be public information, but having said that, I wish her a happy birthday as well.

This committee is adjourned.

The committee adjourned at 1630.





CONTENTS

Tuesday 4 November 2008

Increasing Access to Qualified Health Professionals for Ontarians Act, 2008,	
Bill 97, Mr. Caplan / Loi de 2008 visant à accoître l'accès des Ontariennes	
et des Ontariens aux professionnels de la santé qualifiés,	
projet de loi 97, M. Caplan	SP-405

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke–Lakeshore L)
Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)
Ms. Cheri DiNovo (Parkdale–High Park ND)
Ms. Helena Jaczek (Oak Ridges–Markham L)
Mr. Dave Levac (Brant L)
Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)
Mr. Khalil Ramal (London–Fanshawe L)
Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)
Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Bas Balkissoon (Scarborough–Rouge River L) M^{me} France Gélinas (Nickel Belt ND)

> Clerk / Greffier Mr. Katch Koch

Staff / Personnel

Ms. Elaine Campbell, research officer, Research and Information Services Mr. Ralph Armstrong, legislative counsel







SP-16

SP-16

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Monday 17 November 2008

Standing Committee on Social Policy

Workplace Safety and Insurance Amendment Act, 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)



Lundi 17 novembre 2008

Comité permanent de la politique sociale

Loi de 2008 modifiant la Loi sur la sécurité professionnelle et l'assurance contre les accidents du travail

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 17 November 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 17 novembre 2008

The committee met at 1433 in committee room 1.

The Acting Chair (Mr. Joe Dickson): Good afternoon, ladies and gentleman. I'd like to call the committee to order.

SUBCOMMITTEE REPORT

The Acting Chair (Mr. Joe Dickson): I would ask for a report of the subcommittee on committee business.

- Mr. Jim Brownell: Your subcommittee on committee business met on Friday, November 7, 2008, to consider the method of proceeding on Bill 119, An Act to amend the Workplace Safety and Insurance Act, 1997, and recommends the following:
- (1) That the clerk of the committee, with the authority of the Chair, advertise the hearings in the following newspapers: Hamilton Spectator, London Free Press, Kingston Whig-Standard, Sudbury Star, Toronto Star and the Windsor Star.
- (2) That the clerk of the committee post the information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.
- (3) That interested people who wish to be considered to make an oral presentation on the bill should contact the clerk of the committee by Friday, November 14, 2008, at 12 noon.
- (4) That if a selection process is required, the clerk of the committee provide a list of all interested presenters to the subcommittee following the deadline for requests.
- (5) That the length of presentations for witnesses be 20 minutes for groups and 10 minutes for individuals.
- (6) That the deadline for written submissions be Tuesday, November 18, 2008, at 5 p.m.
- (7) That the research officer provide the committee with a summary of the recommendations received by Wednesday, November 19, 2008, at 12 noon.
- (8) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

That is the subcommittee report.

The Acting Chair (Mr. Joe Dickson): Comments? Agreed? All those in favour? Opposed? Thank you.

WORKPLACE SAFETY AND INSURANCE AMENDMENT ACT, 2008

LOI DE 2008 MODIFIANT LA LOI SUR LA SÉCURITÉ PROFESSIONNELLE ET L'ASSURANCE CONTRE LES ACCIDENTS DU TRAVAIL

Consideration of Bill 119, An Act to amend the Workplace Safety and Insurance Act, 1997 / Projet de loi 119, Loi modifiant la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail.

INTERNATIONAL UNION OF PAINTERS AND ALLIED TRADES, ONTARIO COUNCIL

The Acting Chair (Mr. Joe Dickson): Ladies and gentlemen, the first presenter today is the International Union of Painters and Allied Trades, Ontario Council. I wonder if they would be good enough to come to the table.

Just before we start the process, these are 20-minute sessions. If it is a shorter session, then there will be appropriate questions and answers between the three parties.

I will let you go. I would ask you to introduce yourself.

Mr. Joseph Russo: My name is Joseph Russo. I'm the general counsel with the International Union of Painters and Allied Trades, Ontario Council.

The Acting Chair (Mr. Joe Dickson): Welcome, sir. Mr. Joseph Russo: Thank you. The International Union of Painters and Allied Trades proudly represents over 7,500 men and women throughout the province of Ontario. We have local unions in Toronto, Hamilton, Ottawa, Kingston, Kitchener, Windsor, London, Sarnia, Sudbury, Sault Ste. Marie and Thunder Bay. Our members work in both the ICI and the residential sectors of the construction industry. We perform work such as painting and decorating, drywall finishing, glazing, plastering and stucco application, lead abatement, asbestos and mould removal, sandblasting, waterblasting and fire-proofing.

Our membership has a proud and dignified history in the province of Ontario, and our membership closely mirrors the multicultural diversity of the people in this province. Amongst other languages, our members speak English, Italian, Chinese, Portuguese, Spanish, Polish, Turkish, Vietnamese, Urdu, Somalian and Punjabi. Basically, you name it, and we have members from that background.

We are here today to speak strongly in support of Bill 119, and we do so primarily for three reasons. First of all, if passed, Bill 119 will close loopholes in the existing legislation which exempt independent operators, sole proprietors and company executives from mandatory WSIB coverage in Ontario. These loopholes have led to widespread abuse in the system.

Currently, industry experts estimate that there are between 90,000 to 140,000 construction workers who are not covered by their employers. In fact, many of our members have come to our office complaining that employers are forcing them to sign declaration forms indicating that they are independent operators so that their employers won't have to pay the WSIB premiums.

One example that comes to mind that I recall vividly was the case of two individuals, José and Maria, a newly married who came to Canada from Venezuela. They joined our union because they wanted to work in the residential painting industry. What ended up happening is that we sent them to work for one of the smaller painting contractors, and they came back the next day with these forms saying that their employer wanted them to sign them. They were forms saying that they were independent operators.

They were very frustrated and perplexed, saying, "We don't understand. We showed up as employees, and they're asking us to sign as independent operators when we don't even have any idea of how to be an independent operator or operate a business. So we don't understand why this is happening." We explained to them that it was to try and get around the WSIB premiums, but they were very frustrated. They were also frustrated and perplexed when they learned about the precarious situation they would be put in if they were seriously injured on the job site.

Construction workers in this province should not be forced to make a decision between having a job and having WSIB coverage. They deserve a lot better. They deserve both.

Another example that comes to mind is one of our smaller drywall contractors. What happened in this case was that they contacted us and informed us that they were selling one share to each one of their employees, and by doing so that they would become "owners." As "owners," they were then going to give them titles which were ridiculous, such as "director of coordination" or "director of policy and production," so that then these individuals would become "directors" of the company and they wouldn't have to pay the WSIB premiums for them. There are far too many of these unscrupulous contractors in construction, and these loopholes have to be tightened up, because they will be manipulated.

The bill has to be very clear. If you're involved in the construction industry, WSIB coverage has to be manda-

tory. This is why, although we are in support of the bill, we are against any type of exemption that currently exists in the bill, such as the home renovator exemption, because, just as in the other two examples I gave you, we think it would lead to abuse.

The second reason we support the bill is that, without question, it will lead to greater health and safety education and training of construction workers. This will assist the WSIB in meeting its Road to Zero campaign, the elimination of lost time for injuries and fatalities in the workplace. As I stated earlier, the number of unregistered independent operators in the province is staggering, and there is no method in place whatsoever for these workers to receive any form of health and safety training. WSIB statistics also clearly reveal that the majority of workplace injuries and fatalities in the construction industry fall upon workers who have not had any proper health and safety training. In other words, a properly trained worker is a safer worker.

If this bill is passed and all independent operators have to apply for WSIB coverage, this will force them to have direct contact with the WSIB and other organizations, such as the Construction Safety Association of Ontario, for safety training.

I've personally sat on several committees dealing with how to try to reduce the numbers of fatalities and injuries in the construction sector. Although labour and management sometimes disagree on the best way to achieve that, there's one area where there's clear, clear consensus: That is, there has to be greater safety and training education for the construction workers of this province. Better safety means fewer injuries and fewer fatalities, and that's extremely important.

The third reason we support Bill 119 is that it will level the playing field in that it will create equality for bidding construction work in this province and thereby work toward reducing the vast revenue leakages lost to the underground economy.

Currently, independent operators who do not have to pay WSIB premiums have an unfair competitive price advantage over legitimate contractors who pay the WSIB premiums. So in essence, the WSIB has become a source of economic disadvantage for those same construction contractors who pay the WSIB premiums. Industry experts have estimated that 100% of the construction-related costs associated with the WSIB system are currently paid by 61% of the companies involved in the industry, and that there may be as much as \$350 million in unpaid premiums. This is completely unfair. And, yes, there are those who will argue that extending WSIB coverage to all workers would create financial hardships for smaller companies. But these are simply costs which these smaller companies should have been bearing all along.

We don't think it's a justifiable position for these smaller companies to argue, "Hey, I've enjoyed a great economic advantage by not having to pay WSIB premiums over the years and I'd like the government to leave things the way they are because I enjoy having that economic advantage over the guys who are paying the freight." This is exactly the type of attitude which has led to the proliferation of the underground economy in the province of Ontario, specifically in the construction industry.

This bill, if passed, will work toward helping to reduce millions upon millions of revenue dollars lost to the underground economy in Ontario, and will also serve to reduce WSIB premium rates, as the pool of contributors to the WSIB will increase when these smaller companies come into the fold.

We have also heard some individuals speak against Bill 119, arguing that it will expose WSIB to more unfounded claims for benefits. The theory is that some unscrupulous people who will then become their own employer for WSIB purposes will make their own decision as to whether or not they are injured. I simply can't understand this argument. It's basically saying that an employer will decide if he's injured or not. For those of us who represent injured workers in this province, I don't think anyone, whether an employer or an employee, makes a decision as to whether or not they are injured. If you fall off a ladder, you don't simply decide, "Hey, I think I broke my leg." You either broke it or you didn't. As far as I know, when the WSIB looks into injury claims, there has to be sound and unequivocal medical evidence suggesting that somebody actually was injured.

If this bill is passed, it's not going to change that, so I don't understand this argument about employers deciding on their own that they will become injured and therefore adding to the cost of the system.

We wish to end by saying that we would like to see the implementation of this legislation occur prior to the proposed date of January 1, 2012, and would suggest a start date of January 1, 2010, and that the WSIB be given whatever resources are necessary to see this program implemented prior to that date.

In closing, we support the bill and trust that our suggestions and support will be acknowledged. Thank you very much.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. Russo. According to my clock, we have about three minutes each. I will commence with the official opposition—member Bailey.

Mr. Robert Bailey: Mr. Russo, thank you very much for your presentation this afternoon. I'd like to get clear from you—you imply, if you listen to your presentation, that these small business people have no insurance coverage now, but that's not true. In fact, most of these people have private insurance that they pay for themselves, right?

Mr. Joseph Russo: That may be the case.

Mr. Robert Bailey: Yes, that is the case. I've heard from a number of them, and I know that the government side and the opposition, both parties, have also gotten numerous submissions from small business people who tell us that they already provide coverage for themselves 24/7, better coverage than they can get from the WSIB. Many of these people are locked into insurance programs

where they'll either have to take a big penalty if they get out or pay both WSIB and their insurance premiums. Would that be the case too, as far as you know?

Mr. Joseph Russo: I don't know if that's the case with respect to their insurance policies. I'm not aware of that. What I can tell you at least is that a lot of these smaller companies in my area are in painting, decorating and drywall. I'm not aware of too many of these companies that have this private insurance, because I think the intent is that they want to get around the system by trying to save as much cost as they can. Workers' premiums, in terms of insurance benefits, are one of the easiest areas that they can attack, so I can't really answer that because that's not something that I've seen.

Mr. Robert Bailey: Also, I had another question. On page 2 of your newsletter, the newsletter of the insulators and painters and that—they call themselves a special interest group that supports the Working Families Coalition. Would you agree, yes or no, that the union you represent is a special interest group?

Mr. Joseph Russo: I don't know which newsletter you're speaking about. If you have a copy of it, I'd like to see it.

Mr. Robert Bailey: It's called United We Stand.

Mr. Joseph Russo: Yes.

Mr. Robert Bailey: In their submission before the election in 2007, they called themselves a special interest group.

Mr. Joseph Russo: Sorry—which page are you referring to?

Mr. Robert Bailey: It's on the very first page.

Mr. Joseph Russo: The paragraph, or-

Mr. Robert Bailey: I don't have the copy in front of me now. Which paragraph is it?

The Acting Chair (Mr. Joe Dickson): You have about 30 seconds left.

Mr. Robert Bailey: Okay. That was my point, anyway. Our records from Elections Ontario are that the Working Families Coalition, as a group, submitted over \$1 million to the Ontario Liberal Party before the 2007 election.

Mr. Joseph Russo: I'm not aware of that statistic.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. Bailey.

The next rotation would be to Mr. Miller from the third party. You have three minutes, Mr. Miller.

Mr. Paul Miller: Thank you, Mr. Chair. Good afternoon, Mr. Russo. You're obviously in support of this legislation.

Mr Joe Russo: Yes.

Mr. Paul Miller: And would you support the removal of all exemptions from WSIB coverage, including the home renovator exemption?

Mr. Joseph Russo: I would say that most exemptions will be abused so, therefore, I am in favour of removing them.

Mr. Paul Miller: Okay. Failing that, would you recommend that the definition of home renovator be

changed, or more restrictive, to ensure that there is no abuse?

Mr. Joseph Russo: Yes, I would.

Mr. Paul Miller: And would you also recommend that the whole amendments to the act should be more restrictive in areas that you find are questionable at best?

Mr. Joseph Russo: Absolutely. I think that one of the intents of this legislation is to try to remove all avenues for abuse, and I think it does that to some degree. If it can be tightened up to do that even more so, we are totally in favour of that.

Mr. Paul Miller: My one concern about the home renovators situation is enforcement. You know that the ma and pa might do a neighbourhood or whatever, and they may be hired, by phone or by word of mouth, by an individual. My concern is about the liability to the homeowner.

1450

Mr. Joseph Russo: Absolutely.

Mr. Paul Miller: How would the homeowners protect themselves from the ma-and-pa organization? They're not going to ask them to show their WSIB cards. How is

that going to be enforced, in your opinion?

Mr. Joseph Russo: The problem that I foresee from that is that the homeowner, under this legislation, would, in a sense, become the employer, so that if that person doing the renovation is actually hurt on the job through negligence that they'll say happened from the homeowner, they will now sue the homeowner. So the homeowner becomes liable for something that they didn't even envision and that they shouldn't be liable for because that individual should have some kind of coverage in case that individual is hurt on the job.

Mr. Paul Miller: So that should be made quite public and—

Mr. Joseph Russo: Absolutely.

Mr. Paul Miller: —make everyone aware of this situation?

Mr. Joseph Russo: I know that if I'm hiring somebody, and he gets hurt in my home and I can get sued for it, it's something I'd like to be aware of, and I'd like to know what this government is doing to prevent that. Absolutely.

Mr. Paul Miller: Thank you.

The Acting Chair (Mr. Joe Dickson): Further, Mr. Miller?

Mr. Paul Miller: No, that's fine.

The Acting Chair (Mr. Joe Dickson): Thank you. To the government.

Mr. Vic Dhillon: Good afternoon, Mr. Russo. You indicated that mandatory coverage would reduce the underground economic practices in the construction industry.

Mr. Joseph Russo: That's correct.

Mr. Vic Dhillon: Would you mind explaining to the committee about some of these very unsavoury underground practices in the construction industry and how you feel this legislation would help to curb them?

Mr. Joseph Russo: Unfortunately, there's a lot of people in the construction industry who will do whatever

they can to curtail the costs they have to pay. Construction jobs, for the most part, are open to a bidding process and contractors will bid, so there are competitive prices that they're putting in against other contractors. Now, anything that they can use to lower that bid is something they'll do. A contractor who has to pay WSIB premiums has to factor that cost into it. They have to factor in the cost of EI premiums they have to pay, the Canada pension plan premiums they have to pay. An unscrupulous contractor who, for example, doesn't have to pay WSIB premiums will very likely not be paying EI and will very likely not be paying CPP premiums because, seemingly, there's no authority or nothing coming down on them to force them to pay these amounts. That definitely blends into the underground economy because they're not paying any of these premiums.

I think by forcing them to at least have to pay WSIB premiums, that's one premium that they will now, by law, be forced to pay, and that will very likely steer them in the direction of having to pay the others, especially when their workers have knowledge with respect to WSIB. They might be saying, "Look, you're paying my WSIB. What about my EI? What about my CPP?" I think that will go very far towards trying to alleviate the problem we have in the underground economy.

Mr. Vic Dhillon: Okay. Thank you very much.

The Acting Chair (Mr. Joe Dickson): Further from the government side? Thank you. That would close your presentation for this time.

Mr. Joseph Russo: Thank you very much.

ONTARIO HOME BUILDERS' ASSOCIATION

The Acting Chair (Mr. Joe Dickson): The next presenter is the Ontario Home Builders' Association. Good afternoon, gentlemen. I wonder if you'd be good enough to announce yourselves for the clerk.

Mr. Frank Giannone: My name is Frank Giannone.

Mr. Harold Kuehn: I'm Harold Kuehn.

The Acting Chair (Mr. Joe Dickson): Thank you very much. You have 20 minutes for a presentation or for a presentation/questions. So please proceed.

Mr. Frank Giannone: Thank you, Mr. Chairman and members of the committee. Good afternoon. My name is Frank Giannone, and I am the president of the Ontario Home Builders' Association. OHBA has 4,200 members and 29 local associations. We are the only residential construction association with a provincial network of 29 locals throughout Ontario. We represent builders, renovators, trades, suppliers and service providers.

I'm also the president of FRAM Building Group. I am a fourth-generation builder and have worked in the home building industry for my entire career. I'm a proud builder in the province, and I'm fortunate to be part of an industry that has such a positive role in contributing to the social fabric of Ontario.

Today, the Ontario Home Builders' Association is privileged to have the opportunity to address this com-

mittee on this critical piece of legislation. Our industry believes that this bill will have serious negative consequences for the residential building industry. Although we are here today addressing the Standing Committee on Social Policy, this bill would have a negative economic impact province-wide. It would also hit the most important and most vulnerable business people in the province—small business. In today's economic climate, the additional cost created by mandatory WSIB coverage will amount to a significant new tax on small business operators.

I must say that I am disappointed that this consultation process starts and stops here in Toronto. The impact across the province will be significant. The machinations in Toronto are very different from most of Ontario.

As a province-wide association, we listen to the grass-roots, which is why we are pleased and honoured to have Harold Kuehn, a small renovator and contractor from Ottawa, to discuss the first-hand implications of this new bill. We believe that all construction workers should be covered by insurance, and we support named-insurance requirements and mandatory card-carrying for all construction workers to prove their coverage. We totally support workplace health and safety initiatives and fairness for all in our industry. This initiative, in our view, does not get our support because it doesn't address these issues in a fair way. With that, I will introduce Harold.

Mr. Harold Kuehn: It's a great honour for me to be able to speak on behalf of not only the approximately 4,200 members of the OHBA, but I would also like to put a face, for you, on the roughly 90,000 small business owners and independent operators who will be directly impacted by Bill 119.

I would like to just pay a brief tribute to the OHBA—you can't imagine the honour it is for me to be introduced by the president. I'm definitely a grassroots member of the association. The OHBA is an association that listens to its membership, from the largest to the smallest; it's kind of unique that way. My hope is that our provincial government is also listening to its constituents today, and not just to powerful union leaders and big business lobby groups.

By way of further introduction, I am 51 years old and have been in the building trades for the past 35 years. My wife and I have been business owners for over 25 years, doing predominantly residential contracting, both new construction and renovation. Ours would be a very typical small, family-run construction business. Our gross sales are \$200,000 to \$400,000 a year. From those modest gross sales, we are left with pre-tax income of \$60,000 to \$120,000 per year, and it's very rare that we hit six figures.

We have always been registered with WCB/WSIB, and we've paid thousands of dollars in premiums to WSIB to insure our workers since 1983, when we incorporated. We have never had a lost-time injury or claim. We have declared literally every dollar of income in all these years, pay our taxes, pay our employees, treat our clients fairly, and are treated fairly by them in kind. We

are nothing special. I know there are tens of thousands on other small mom-and-pop operations just like mine that are in the crosshairs of Bill 119, and most of them don't even know this is about to hit them.

I first heard of the idea of forcing mandatory coverage onto business owners and independent operators about 10 years ago, and I've been actively opposing it ever since. Though it always costs our very small business a couple of days of billable time, I've been to Toronto five times in the last four years to face this issue. I've met with two Ministers of Labour—Christopher Bentley and, recently, Minister Fonseca—and also with the senior staff of Minister Steve Peters.

Though the years and through four Ministers of Labour, the same tired catchphrases have been used over and over again in an attempt to put a positive spin on this very bad idea. I will attempt to debunk three of the worst of these oft-quoted but unsubstantiated platitudes.

It has been claimed that Bill 119 will level the playing field. The implication here is that executive officers of small companies and independent operators have an unfair advantage over the large businesses with which they compete. Generally, governments have recognized that it's the smaller, weaker parts of society that need protection, not the rich and powerful. Instead of levelling the playing field, Bill 119 is nothing short of a crushing, new, non-progressive income tax added to the backs only of legitimate small business owners who already face many competitive disadvantages with large companies; I won't bother listing them for the sake of time. Instead of levelling the playing field, as they like to keep saying, this huge new cost on the backs of legitimate, lawabiding businesses will give them yet another gigantic competitive disadvantage with the underground economy with which they compete daily.

1500

This leads me to the next claim by the proponents of this bill, that Bill 119 will fight the underground economy. The very unfair implication here—and I resented hearing it from the previous speaker—is that those who do not currently pay WSIB premiums on their own wages also do not pay taxes. This is patently false.

WSIB coverage for the self-employed or business owner is not a loophole. It was designed into the system that way nearly 100 years ago. Paying taxes has never been optional, but personal coverage is. It's not a loophole.

I'll divert here briefly: There's a reason why I, as a business owner, am not allowed to pay into EI. EI is smart enough to understand there will be abuse by business owners who have their backs against the wall.

Though my wife and I have not elected to buy personal coverage from WSIB, we have sent them \$43,300 in the last 10 years, insuring, for the most part, one worker per year. We also pay all our taxes.

Instead of fighting the underground economy, this new law will drive even more legal small business owners out of business altogether or entice them into the underground economy. It has also been suggested that WSIB will help fight the underground economy because it is now teaming up with CRA. If CRA knew who was in the underground economy and how to fight it, we wouldn't have this problem.

Thirdly, like a tired mantra, it's always claimed that personal mandatory coverage will make Ontario a safer place to work. Nobody can argue—I certainly wouldn't—that workplace safety should not be everyone's highest priority. However, Ontario is already one of the safest places in the world to work. It is more dangerous to drive to work than it is to be at work. Secondly, forcing business owners to purchase mandatory coverage can do nothing but make my working year more dangerous, since my already modest living will be so diminished that I'll have to work harder, faster and longer in order to make a living. Including admin, sales and production, my average workweek is already 60 hours. Our situation is not unusual. It is the lot in life of most small builders and independent operators.

In my 35 years in the construction industry, I have observed three distinct groups within the independent operators or small business owners. From a taxation compliance point of view, we have the ethically correct, we have the group I dub the ethically challenged, and finally the ethically completely corrupt.

The ethically correct group—I see I'm going to have to chop this for time—do everything you want them to do. They pay their taxes, they hold business licences and trade qualifications, they pay WSIB on all their employees, they're members of associations, they treat their clients well, they're almost never inside a court of law—they're the salt of the earth. They're the guys you want to be helping. What is going to happen to this group is that they are going to be penalized by this legislation. They're going to fare worst of all these groups. I'm sorry; I have to jump around a little bit for time.

The ethically correct group is going to suffer great financial hardship. It will never likely collect a personal WSIB benefit, since such a claim would cause premiums to go up. Many in this group will simply fold; others will shift to the other two groups.

The ethically challenged are a group that basically splits their income. They appear to be ethically correct, but part of their revenue stream is cash. The ethically completely corrupt group are just working for cash all the time and are on nobody's radar.

Really, the only winners with Bill 119 will be the ethically corrupt group. They'll be laughing all the way to the bank, which in their case is actually a mattress stuffed with cash. These people are on no one's radar. CRA has been trying with little success to ferret out these guys for years, but Bill 119 will give them yet another business advantage over legitimate small business owners.

The current Minister of Labour has suggested that there are large differences between private insurance and WSIB. On this point, I completely agree with the minister. I can afford private insurance, and unlike WSIB

coverage, my private policy covers me 24 hours a day, seven days a week, which is crucial to me, since whether I break my leg putting up Christmas tree lights or on the job, I'm out of work. Mandatory personal coverage with WSIB will cost my wife and I an additional \$5,000 to \$10,000 of pre-tax income each and every year until I retire or I'm forced out of business by this.

Premier McGuinty is meeting with large auto manufacturers who are looking for financial assistance. Unlike the automakers, the 90,000 workers I am trying to put a face on for you will never be reaching for the provincial wallet as we struggle through the hard times that are already on us. There is no social safety net for us. We didn't expect one. But we cannot afford to have the province reaching for our wallets to the tune of one month's pre-tax income each and every year on our legitimate, taxable earnings, on top of all the other taxes that we already pay—I'd like to just throw in here that I am in the home-building rate group, and that is how it works out. It works out to one month's pre-tax income each and every year, at the rate of 8.71%. If I were a roofer, it would be one and a half months' pre-tax income. If I were a foreman contractor, it would be two months' pretax income.

How is this not going to feed the underground instead of fight the underground? People, in desperation, will be leaving the above-board mainstream, and they'll be heading to the underground to conceal some of their income so they can hang on to something. Tax freedom day in Ontario comes, according to some public group, around June 13. It can't happen on July 13 or August 13. It's just not possible.

If it weren't for religious and personal convictions, why wouldn't I join the underground? My operation is almost imperceptible, from a consumer's point of view. It's a small operation. He has a hard time distinguishing me from the crooks and the cheats, perhaps—hopefully not. The size of the operation is not much different, and for me to have this huge competitive disadvantage—I already have a huge competitive disadvantage. I'm paying the freight all the way along, but I can't also carry this and stay in business.

I'll conclude with that.

Mr. Frank Giannone: I just want to reiterate that we've put forward ideas, we've indicated that we support the named insured as a requirement of payment to our subtrades, and we've put forth that we agree that every worker on a construction site has to carry a card indicating which insurance he's covered under, whether it be WSIB or whether it be private insurance, and it would have to be private insurance that would be approvable. We've indicated that position. We strongly support those kinds of actions.

The Acting Chair (Mr. Joe Dickson): Thank you. We have four and a half minutes left. We'll commence with the third party. Mr. Miller, you have about a minute and a half.

Mr. Paul Miller: One of the biggest things that the government is saying is that you feel that it gives you a

disadvantage and you can't compete with the largest companies. How do you answer that? You haven't spelled out exactly what the costs are to you, more than they would be for a larger company, to compete. I'm a tradesman, so I know how the construction business works, and there are some real horror stories out there about people who haven't been insured. So I'd like an answer: Why do you feel it gives a bigger company an advantage over you? They're saying you have an advantage over them because you don't pay WSIB.

Mr. Harold Kuehn: If you had a 100-member company—and those are the kinds of groups that are lobbying for this; they're hoping their WSIB premiums will go down. Mine are going to go up from tens of thousands of dollars through the years that I have paid—and I have run a tight ship and had no claims. I'm suddenly going to lose one to two months of pre-tax income, and I'm one of the good guys. I'm one of the guys who pays all the taxes, pays EI, pays CPP—and I resented the suggestion that I don't—and I will suddenly be losing one to two months' real income for the rest of my life. How is that not a disadvantage?

Mr. Paul Miller: Why 100 of them and they'd pay less, and you would pay more with, say, 10 employees? How do you compare that?

Mr. Harold Kuehn: I beg your pardon?

Mr. Paul Miller: You're saying you'd pay more in comparison. If they had 100 employees, they might pay less?

Mr. Harold Kuehn: It won't even affect them. They don't step on the job sites, so they'll be exempt. Because I happen to wear a tool belt instead of a suit, I'll get whacked with one to two months' income taken, stripped out of my—

Mr. Paul Miller: I'm a little confused by that, but thank you.

Mr. Frank Giannone: Let's understand that most of the province is not—

The Acting Chair (Mr. Joe Dickson): If I may interject—thank you very much. I'll have to move on to the official opposition.

Interjection.

The Acting Chair (Mr. Joe Dickson): No, I'd sooner leave them to the last. I'm only kidding. Any members from the government?

Mr. Vic Dhillon: Thank you very much, gentlemen, for your presentation. In particular, I want to thank Mr. Kuehn for coming today and for his long-standing advocacy; that's recognized.

The underground economic practices are well documented—about the detrimental impact they have on the industry. Can you please explain to the committee some of these unsavoury practices that you've seen in the construction industry?

Mr. Harold Kuehn: Yes, I'd be happy to. I had that in my notes but I ran out of time.

I have seen both large and small players in the underground economy. The small players I have seen are

generally doing it on a part-time basis. While I don't participate in the underground economy, I have a bit of sympathy for somebody who's on a modest pension or earning a very low private sector wage and is supplementing it by doing a brake job or fixing some drywall for a neighbour or whatever. You have that segment, and it's definitely there, but it's small.

You also have very organized, large underground efforts. I know, personally, of a fireman in Ottawa who runs a business several times larger than mine. His labour pool is very convenient; it's all other firemen. As a group, they have a lot of time off. He does millions and millions of dollars of work for a high-tech millionaire in the area, as well as for others, and it's all cash. He doesn't pay WSIB, he doesn't pay CPP, he doesn't pay EI, he doesn't pay anything, and he doesn't collect GST. He's been doing this for years and years. There are lots of those guys too, and that, I tell you, really gets the goat of legitimate operators like myself who are paying the freight, year after year, doing exactly what we've been told to do.

But this legislation will not do anything about that.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation.

Now, I only have member Scott and member Bailey listed for questions.

Interjection.

The Acting Chair (Mr. Joe Dickson): Seeing as it's you, Mr. Shurman, we'll certainly make an exception.

Mr. Peter Shurman: Thank you, Chair.

Thank you, Mr. Kuehn, for travelling here. I think it would have been more appropriate if this committee had done some travelling and come and seen you. I also apologize for the fact that the government has seen fit to ram this legislation through, because there are thousands of companies just like yours across this province.

I want to know if you think that the results of this legislation are that we'll be driving people who are less ethical than you, or have to be less ethical than you, underground?

Mr. Harold Kuehn: Absolutely. I see that happening, and I'm hoping that the members of Parliament here will listen to somebody who has usually got his feet on the ground wearing work boots and a tool apron and knows how these things work. That is exactly what will happen.

Mr. Peter Shurman: Let me ask you this: I've had interventions from people in my own riding who are in businesses much like yours, and they are already insured, and well insured—it sounds like you are as well—

Mr. Harold Kuehn: Yes, I am.

Mr. Peter Shurman: —outside of WSIB, and would prefer to retain their insurance. If the bill that the government presented had said that people like yourself must be insured, and they have a choice—it could be WSIB or it could be private, but they have to present some certificate—would that be appropriate?

Mr. Harold Kuehn: Absolutely, and I would support that 100%. Most responsible business people would agree with that, and most responsible business owners

have no issue, although it hurts them, paying WSIB—as is the law, and has been for over 100 years—on their employees. But, yes, I would support mandatory private insurance.

One of the reasons people are in small businesses like mine—it's not for the hours and it's not for the holidays and it's not for the benefits and it's not for the pension—is for the ability to have some level of independence and self-determination. That's the other thing that really irks me with this. I am being forced to buy a product I don't want from a monopolistic organization I do not agree with—in the way that they manage their affairs—to solve a problem I don't have.

The Acting Chair (Mr. Joe Dickson): I'll give you

10 seconds, Mr. Kuehn.

Mr. Peter Shurman: The last 10 seconds. Did you ever get your meeting with the minister, Mr. Giannone?

Mr. Frank Giannone: Yes, we had our meeting with the minister and we indicated our position on those two items.

Mr. Peter Shurman: He didn't help you?

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. Shurman.

Thank you, gentlemen, for your presentation. We appreciate it very much. We've gone a couple of minutes over, there, so I did certainly show some latitude. I always like to hear Mr. Shurman's questions.

ONTARIO SHEET METAL WORKERS' AND ROOFERS' CONFERENCE

The Acting Chair (Mr. Joe Dickson): The next presenter this afternoon is the Ontario Sheet Metal Workers' and Roofers' Conference. Please take a seat, gentlemen. Welcome.

Mr. John Moszynski: Good afternoon. Thank you.

The Acting Chair (Mr. Joe Dickson): At your con-

venience, please introduce yourself for the clerk.

Mr. John Moszynski: My name is John Moszynski. I'm counsel for the Ontario Sheet Metal Workers and Roofers. To my right is Mr. Tim Fenton, who is the business manager of the Ontario Sheet Metal Workers' and Roofers' Conference.

The Acting Chair (Mr. Joe Dickson): Thank you

very much. Please proceed.

Mr. John Moszynski: Thank you very much, sir, and thanks to the members of the committee for listening to us. I'm at a disadvantage; I haven't heard all of the sub-

missions you have.

We do have some concerns that we would like to bring to your attention on behalf of our members. Our members are skilled sheet metal workers, sheeters, roofers who work throughout the ICI sector of the construction industry and the residential sector. They work throughout the province. They work for contractors who are among the larger players in the industry. But we also represent the employees of many small and moderate-sized contractors in the industry. We support this legislation. We have some concerns we want to speak to about the proposed exemption in some detail.

I constantly hear from our contractors concerns about unfair, non-union competition. We also participate with non-union employers in the sheet metal trade, through our provincial apprenticeship committees, so we also have experience with what I would like to call the fair, non-union contractors, and there are such things. I hope there are no other building trades here to hear me say that, but it's true. So I have a concern about the ability of both union and fair, non-union contractors to survive, particularly as we're looking toward what's likely to be another deep depression.

One of the things that has historically happened in construction is that it has tended to be a dumping ground. When times get hard, a lot of people will end up there, doing the work for less. That's been part of the history of the construction industry in Ontario, and I'd really like to think that somebody is actually going to change the approach to the entire industry. When you think about the employment that's out there, when you think about all the houses that have been built in the last 15 years that are all going to require work—sooner rather than later, in a lot of cases—we're really missing a golden opportunity if we don't fully exploit the opportunity to make trades in construction a real part of the employment future.

I really support anything that is going to move to clean up an industry that remains, in a lot of cases, very much a Wild West situation. Extending the scope to limit the ability of smaller construction firms to carry private insurance and hide their non-union and non-reported employees is going to strike a fundamental blow at the black market.

You've heard, no doubt, about the increasing prevalence of the use of pieceworkers, in new construction particularly. That's gone on a lot, partly as a means of evading contractors being required to carry employees and pay their WSIB costs. That's a reality—companies that would have carried 40 employees 20 years ago, you will now discover are all carrying pieceworkers. There are some efficiencies there in terms of how the work gets performed, but I think there's a real loss to the public revenue arising from the way people have been allowed to off-load their responsibilities to the workers. That is also part of what continues to create this sort of continuing ghetto of lower-skilled employees. Those are some of the reasons that we support the legislation.

1520

I want to talk about the home renovation exemption that the government has proposed. Now, I haven't followed the debates closely enough to understand where people are coming from on this, but I've tried to get my mind around it. It has to be, surely, something like, "We don't really want to require grandma to have to use a registered tradesman if she wants to get her living room painted." I'm assuming that that's the thrust of what the exemption is looking for.

I tried to get my mind around that, because if it can apply to grandma painting her living room, well, will it also apply to the fellow who buys a bungalow, knocks down everything except one wall and then puts up a brand new house? And the answer, I think, is yes—because that might well be considered home renovation. Right?

So I'm very concerned about the scope of that exemption. I think it's probably way too broad. If you want to allow some sort of reasonable, small work around the house to be done without a lot of paperwork, well, that's laudable. If you're proposing, though, that grandma can end up hiring a couple of guys who show up at her door and say, 'I'm going build an addition for you," then you're really looking at trouble.

I'll tell you why. Those people are not going to carry insurance, and they may well end up suing grandma as the employer. So if you're talking about exempting someone from the statute entirely, I'd worry very much about the issue of consumer protection arising there.

I would suggest that perhaps you might think more about phrasing the exemption in terms of maintenance, rather than home renovation construction. "Construction" will cover everything. I think "maintenance" will probably cover more of what you want and be a little more focused.

Those are some concerns we have on reading. Generally, I think when you're looking at that exemption, you ought to bear in mind—I don't know if anyone here watches Mike Holmes on television; you probably do. You hear him talking constantly about the problems involved in renovation work and the fly-by-night contractors. I'm sure you've all had complaints. In my suggestion, you want to be very careful before you sort of institutionalize a lack of standards in home renovation work. I think we ought to be looking at it as an industry, as a real bright opportunity for young people, rather than saying, "Okay, it's not really going to matter if we craft this exemption."

Really, those are our thoughts. I'd be more than happy to take any questions, but we wanted to bring those concerns forward.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We have nine minutes, or a total of three minutes each. I will commence with any questions from the government.

Mr. Vic Dhillon: Thank you very much for your presentation this afternoon.

This legislation would make it essential for the client or the customer to be shown a certificate that would be issued by the WSIB to the subcontractor or the contractor, to ensure that they're in good standing with the WSIB. The WSIB has assured the government that this process will be simple, fast and efficient for business owners. Can you please tell the committee how this mandatory requirement would enhance or benefit the construction sector?

Mr. John Moszynski: Absolutely. Right now, providing that you can convince somebody that you can do the work, there is no requirement that you show them any proof of status, proof of insurance, so contractors are routinely operating with expired insurance or without any insurance at all. That's what I'm told by our contractors.

The other issue is with persons who may well carry insurance for themselves or for their partner, but do not carry insurance for their workers. I understand that's illegal, but it goes on.

So production of any kind of documentation, I suspect, would very quickly be adopted by clients as a requirement once it's shown as a matter of policy in the act. I think it's likely to be picked up very quickly, in terms of becoming a standard addition to construction contracts.

The Acting Chair (Mr. Joe Dickson): Further?

Mr. Vic Dhillon: Health and safety is very important to this government and, I would assume, to your organization. Since we came into office in 2003, we've doubled the number of health and safety inspectors. With their assistance and the assistance of workers, unions and employers, we've reduced the lost-time injury rate by 20%. Can you tell us how mandatory coverage would further help reduce injuries and fatalities on construction sites in Ontario?

Mr. John Moszynski: A lot of things can be done when you have enough funding to do them. What's needed is more enforcement. I'm assuming that when the revenue flows are more fairly distributed across the industry, more of that money will be put into enforcement, because, really, you're only touching the tip of the iceberg.

The Acting Chair (Mr. Joe Dickson): Thank you very much, sir.

Mr. Paul Miller: On a point of order, Mr. Chair: I hope you're going to allot us the same amount of time as the government.

The Acting Chair (Mr. Joe Dickson): Actually, just for the record, everyone has been over their time allocation. I've been most generous.

Mr. Paul Miller: I hope you'll be most generous with us too.

The Acting Chair (Mr. Joe Dickson): Because you sit so close to me, I have great fondness for you.

The official opposition, Mr. Hudak.

Mr. Tim Hudak: Thank you very much for the presentation.

As you know, the Ontario PC caucus has raised some strong and fundamental concerns, not only with this legislation and the impact that it will have on small business—it will chase more into the black market; it will put a lot out of business—but also the very undemocratic, unfair way that this legislation has been pushed through the Legislature with a time allocation motion and the fact that this far-reaching legislation is not being allowed to travel at any point in time. We're constrained to only a couple of days here in Toronto, despite the fact that—my colleague will correct me if I'm wrong—the legislation won't go into effect until 2012.

What's a coincidence is that tomorrow night there's a fundraiser hosted by you folks, the sheet metal workers, at the training centre on Attwell Drive in Toronto for a pricey \$350 a shot. The special guest is Peter Fonseca, the Minister of Labour. It's for the Honourable John Milloy. Given the way this legislation has been rammed

through without consultation and the fact that you're hosting a fundraiser for the minister tomorrow night during these hearings, do you think this passes the smell test?

1530

Mr. John Moszynski: If I could, sir: I'm old enough to remember when it was Bette Stephenson and the Progressive Conservatives who rammed through some of the best labour legislation this province has ever seen, and we're still enjoying the benefits of it. It brought stability to the ICI sector and did a lot of wonderful things. I can't speak to your issues about process and timing. What I can say is we have to increase our regulation of the industry, and it's better to do it now, to continue some of the work that actually the Tories started a long time ago.

Mr. Tim Hudak: My point would be—and there's still some time to go before the legislation kicks in in 2012, so I ask my colleagues opposite, we've asked the minister, "What's the rush?" It so happens he has this big-ticket fundraiser taking place tomorrow night for 350 bucks a ticket as perhaps a reward for ramming this legislation through. It's not just me who says it. A constituent of mine from Jordan Station, Ontario, Mr. Upton, said, "The rather underhanded way in which" the minister "went about this legislation without announcing his intentions and making every effort to ram the legislation through as quickly as possible without any consultation with those who will be most affected by it smacks of collusion with the construction trade unionists," is what my constituent has suggested. Is there a quid pro quo with the fundraiser legislation?

The Acting Chair (Mr. Joe Dickson): Thank you for the question, Mr. Hudak. I've generously allowed you to go over your limit.

Mr. Tim Hudak: I just asked if there was a quid pro

quo with legislation.

Mr. John Moszynski: Absolutely not. But I would say this: The building trades have been telling governments of every stripe for years that you really have to do something to level the playing field, that it's crazy to let this most productive part of the economy sort of exist as a Wild West. At times, every government sort of recognized it and did something. I think, actually—

The Acting Chair (Mr. Joe Dickson): I'm going to have to call a close to that question and that answer. Thank you. I've allowed a minute and half over on that,

which is most generous.

I would now go to the third party, please.

Mr. Paul Miller: I have some concerns. A former speaker was in here talking about he's quite proud of the fact that he's insured by a private company and he's had no claims in his 25 years as a home builder, which I find amazing, because I know of lots of accidents that happen at building sites, and that's amazing. Would it be safe to say that on a private insurance plan, if you were insured and you had several claims in a year, that your premiums would go up? Would that be a fair assumption?

Mr. John Moszynski: Yes.

Mr. Paul Miller: Okay. Now, under a blanket coverage under the WSIB, that wouldn't happen, because it's

province-wide. It has certain levels that have to be maintained and a certain level of payout and there would be investigators sent out to these sites: Why is this contractor having more accidents than others? That would be dealt with to see what the causes are.

Would it be fair to say, also from a safety perspective on these job sites, that they cut corners sometimes when they're not certified tradesmen? I myself am a tradesman; I've seen things which are horror stories. In fact, I was driving down the Queen E and there was work under a bridge and there was a manlift there—this was just a couple of days ago—with two guys on it and one of those orange traffic pylons and the cars were doing 120 kilometres right beside it. I was a little concerned, to say the least. I thought it might have been handled better. But that's hired by the government to fix the highways, so I don't know whether they were a unionized company or not. But I know from my experience that unionized companies that have regular safety programs and regular inspectors are much safer sites than some of these other situations. Is that a fair estimate?

Mr. John Moszynski: Absolutely. The one thing I'd point out to you is that it's one thing for lawyers and members of Parliament to be able to talk about reporting accidents. That's not necessarily something that a worker can easily do. People remain very worried about their jobs and remain very susceptible. A lot of the people you're talking about who end up working in the sort of shadow world of construction are there because they are not fully aware of their rights and they're not required to become aware of their rights.

Mr. Paul Miller: My last question, quick. I've got what?

The Acting Chair (Mr. Joe Dickson): Ten seconds.

Mr. Paul Miller: Ten seconds. My last question would be that in some of these companies, which I will not name, would it be possible that the worker on the site, if he was injured on a regular basis, would probably be dismissed by the subcontractor as a potential hazard to his work team, constantly getting injured and claims and his insurance rates will go up—but under WSIB, which is protected by the Ontario government, this worker would have his rights?

Mr. John Moszynski: Normally, what happens in a bad sort of employer—

The Acting Chair (Mr. Joe Dickson): Three seconds.

Mr. John Moszynski: —is that the worker is paid his wage to stay at home until he recovers enough to come back to work. He's returned to work for a couple of weeks and then he's terminated.

Mr. Paul Miller: So that would be a yes.

Mr. John Moszynski: That's a yes.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation, gentlemen.

Mr. John Moszynski: You're very welcome. I thank all members of the committee.

The Acting Chair (Mr. Joe Dickson): Thank you, Mr. Miller. I also allocated you extra time.

Mr. Paul Miller: I appreciate that, Mr. Chair. Your generosity is overwhelming.

The Acting Chair (Mr. Joe Dickson): The pleasure is all mine, sir.

INTERIOR SYSTEMS CONTRACTORS ASSOCIATION OF ONTARIO

The Acting Chair (Mr. Joe Dickson): Our next presenters, ladies and gentlemen, are the Interior Systems Contractors Association of Ontario. Please come forward. Welcome and please introduce yourself for the clerk, sir.

Mr. Ron Johnson: Hello, everyone. My name is Ron Johnson, and I'm the deputy director of the Interior Systems Contractors Association of Ontario.

The Acting Chair (Mr. Joe Dickson): Welcome. There are 20 minutes, sir. Whatever is not used by you will be divided equally amongst the three parties here today.

Mr. Ron Johnson: I can assure all of you I won't use 20 minutes. I'll use about five—

The Acting Chair (Mr. Joe Dickson): And I'll allow you an extra couple of seconds. I find it difficult if I give you three minutes extra time per party and the question takes two minutes and 55 seconds, it's not really fair to our guests—to have time to give an appropriate answer. Sorry to interrupt, sir.

Mr. Ron Johnson: That's fine. As I said, my name is Ron Johnson. I'm the deputy director of the Interior Systems Contractors Association of Ontario. I want to thank the Standing Committee on Social Policy for the opportunity to present to you today on Bill 119, An Act to amend the Workplace Safety and Insurance Act, 1997.

Just by way of introduction, I'll let you know what we are and who we are. The Interior Systems Contractors Association of Ontario, which is ISCA as an acronym, was incorporated on September 1, 1971. Originally, it was incorporated as the Drywall Association of Ontario and, in 1980, it was renamed the Interior Systems Contractors Association of Ontario. Now, what we do is we represent employers within the province of Ontario who employ nearly 20,000 construction workers within the province.

These workers do a number of different trades, and I'll just give you a brief list of what they are so you have it for the record. The workers that our employers employ do drywall and acoustic installation, thermal insulation, exterior insulation and finishing systems, asbestos removal, drywall taping and plastering, fireproofing applications, residential steel framing and mould remediation.

In 1984, ISCA was issued a certificate of accreditation by the Ontario Labour Relations Board, which gave us the right to negotiate with the United Brotherhood of Carpenters and Joiners of America. Again in 1987, we were issued another certificate of accreditation, which gave us the ability to negotiate with the International Union of Painters and Allied Trades, district council 46, in the province of Ontario.

As well, ISCA, working with our partners in labour, also runs the largest apprenticeship training centre in North America with respect to interior systems work. We crank out about 400 apprentices a year and we upgrade about 4,000 journeymen at our facility.

I'll tell you upfront that my presentation's going to be fairly short, and then if you have any questions, I'd be

happy to take them.

The first thing I want to do is congratulate the minister on this Bill 119. I know he's put a lot of work into it. We support the government's initiative. We think it's a good bill and we strongly support the position of the government with respect to this legislation. We're pleased with the fact that its intent is very pragmatic. We like the approach in terms of dealing with a number of key issues that this bill takes while within the construction industry. 1540

We think it's a tremendous step in the right direction to ensure that those exposed to risk on construction sites either pay, or have paid on their behalf, WSIB premiums. We feel it would foster a level business environment and serve to reduce the size and scope of the underground economy.

Presently, as you've already heard, just 61% of the construction industry is paying 100% of the benefits. This is unacceptable. It's certainly unsustainable. The resulting significant loss of revenue to the WSIB serves to inflate the current premium rates by about 20%.

Currently, there are thousands of construction workers within Ontario who do not pay WSIB premiums or do not have those premiums paid on their behalf. Many small construction companies, many that I've dealt with in the past, employing, say, 10 to 20 workers simply avoid the premium by hiring all of their employees as independent contractors. It's an unacceptable loophole that we feel this legislation will close.

Also, I can't tell you how strongly our association is in support of ensuring that executive officers pay premiums—and we're an employer association. We believe that the best thing we can do for our industry and the trades is to have the executive officers pay premiums. The reason, really, is that if you allow an exemption, what you're doing is creating another loophole for people to use as independent operators. It goes back to the fact that we need full payment within the construction sector. Creating an executive officer exemption will only serve to increase the number of people working within the underground economy. That's our position.

We do have two concerns. The number one concern, of course, is the exemption within the residential sector, that being home improvement. We believe that we need to tighten that up. I want to go on record as saying that ISCA will work with the government on language to help tighten up that particular exemption so that it cannot be abused. The other concern we have is that the implementation is 2012. We just feel that it should be a little bit quicker than that. The restrictions and the timelines are obviously geared to WSIB's ability to handle the changes legislatively and manage them. We happen to feel that they should be able to do that quicker.

Those are my positions. I'm going to take any questions.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We have four minutes each. I will go to the official opposition first.

Mr. Peter Shurman: I find some of your positions rather interesting. I'm thinking in particular of somebody who contacted me directly, who is a contractor not unlike the people you represent and who pays quite a bit of money to keep himself and his employees well-insured and who doesn't want this because he sees it as an additional tax and something that would replace the insurance he's got with something that's inferior. Why do you think this is a levelling of the playing field?

Mr. Ron Johnson: If you can ensure that everybody's going to be insured, I would agree with your position. But with all due respect, you can't do that, and—

Mr. Peter Shurman: Wait a minute. Let me interrupt you and ask you why.

Mr. Ron Johnson: I was about to explain why.

Mr. Peter Shurman: Okay, go ahead.

Mr. Ron Johnson: The reality is that with a WSIB-insured system, the infrastructure is in place. Inspection processes are in place to deal with proof of WSIB coverage. Unless you would like every single employee or construction worker within the province of Ontario to carry around a 30-page insurance policy document, you can't verify coverage; you can't verify validity of coverage; you can't verity minimum requirements within coverage. So it's just not pragmatic. In fact, Mr. Shurman, your leader came to our association and he agreed with my position at the time.

Mr. Peter Shurman: Were you here when Mr. Kuehn made his deputation? He has a small business outside of Ottawa. He talked about the effects on his particular business and said categorically, and fairly angrily, I have to say, if I can characterize his statements, that what would happen with this legislation is that small independent operators would be driven underground and be forced to operate unethically.

Mr. Ron Johnson: I don't buy that for a moment, quite frankly. I think that's wrong. I would suggest to you that we're in a situation right now where the underground economy is consuming a great deal of the market share. This is a way for us to ensure that people are working safely; that the premiums are being paid; and that the services, with the added revenue, are being provided to the worker.

Mr. Peter Shurman: Your deputation said, I think I'm quoting accurately, 61% pay 100% of the benefits, but that's not necessarily true if you consider that some of those 39% whom you're leaving out are actually insuring their workers and insuring themselves.

Mr. Ron Johnson: That's a very tiny per cent of the market, and I think you know that.

Mr. Peter Shurman: Well, no, I don't know that. I'm asking you because you have more expertise than I do.

Mr. Ron Johnson: The Council of Ontario Construction Associations has done a lot of work on this particular

issue and, although on the broad scope of things we have some differences in terms of our policy stance on this bill, I can tell you that the number of executive officers being privately insured is very small compared to the general market share.

Mr. Peter Shurman: If we were looking at a piece of legislation that said you have to either adopt WSIB or you have to get some kind of a certificate of insurance from a private insurer that says that you're covered, so that we did level the playing field—using your words—for all workers, would that be acceptable to you?

Mr. Ron Johnson: Theoretically it would be, but here's the problem you face with that: You can't enforce that. You can't expect every single construction employee who bounces around from job to job to carry that type of document with them. Then you have to mandate certain limitations within coverage, and how do you prove that on-site?

The Acting Chair (Mr. Joe Dickson): Thirty seconds.

Mr. Ron Johnson: It's an interesting concept, and it's one that I would fully expect the Conservatives to bring forward. Quite frankly, I'm not averse to it. It's just a practical application of what you're suggesting that I think is the problem.

The Acting Chair (Mr. Joe Dickson): You've got about 20 seconds.

Mr. Robert Bailey: Mr. Johnson, would a named-insured system meet that goal?

Mr. Ron Johnson: A named-insured system would meet that goal. I have been on a number of different construction association types of committees to help develop that named-insured system. The challenge you face is that logistically it's just not possible. I heard Mr. Tory in his press conference, and I talked to him about this as well. Quite frankly, it's very easy to say you want a named-insured system, and that's what you support. I challenge you, and I will help: Try to develop one. When you've got employees in the construction sector bouncing around from employer to employer five, six, 10, 12 times a year—

The Acting Chair (Mr. Joe Dickson): Ten seconds

Mr. Ron Johnson: —how do you handle the named-insured system logistically?

The Acting Chair (Mr. Joe Dickson): Thank you very much. We will now go to the third party. Mr. Miller.

Mr. Paul Miller: Thank you for coming today. Just a couple of quick questions: The one builder mentioned that he has an insurance company separate from WSIB. I don't know about you, but I've had dealings with insurance companies, and it's been questionable at best. A lot of times it's hard to get your money out of them for various reasons. They'll take your premiums, but then, when you want to collect it, it's a difficult situation, and I think everybody in this room has probably dealt with that. I don't really like that approach of separate insurance following people around. Like you pointed out, am I going to pull out a policy every time I go on a job site? I think that's a little bit ludicrous.

In the building trades—as he mentioned, he's a home builder—I frankly don't know too many poor home builders, but maybe that's just me. Any time a home builder does get additional costs, and they're claiming this is going to put them under and all that, would it be fair to say, in your opinion, that a lot of times their costs get passed on to the consumer? Would that be fair?

Mr. Ron Johnson: Well, number one, it's fair, but the most important point: If it's a home builder we're talking about—not this gentleman in particular, because I don't want to reference him—home builders don't employ anybody, quite frankly. Home builders have two or three employees on a particular job site, a site supervisor, somebody to do some cleanup and supervise. Outside of that, it is the trades who employ. To suggest that a home builder would have an issue with this, I'd find that a little surprising.

Mr. Paul Miller: I was a little surprised too, to say the least, because that's my opinion. Any time I've dealt with job sites, you have a foreman maybe who works for them.

Mr. Ron Johnson: Yes, the home builders are not employers. They have a small staff. The reality is that it all gets subbed to the subtrades, and the subtrades are the employers. They drive the construction site.

Mr. Paul Miller: So, in your opinion, representing a trades group, would you think that under this system, WSIB, the safety on these job sites would improve?

Mr. Ron Johnson: Any time you tie more people into the Construction Safety Association of Ontario or the WSIB system, you're creating a cost-benefit to safety on the job site. If I'm an employer tied to WSIB, I have a real self-interest in making sure that I operate safely because I will suffer significant penalties through WSIB premium hikes if in fact I don't.

Mr. Paul Miller: My last question: They made a reference to not being able to compete with the bigger companies if they're saddled with this additional cost. Would it not be based on the number of employees and the premiums would be based—if you had three guys working for you, framing, it wouldn't be any more than a guy who has 100 guys working for him. He's paying for them. They tried to indicate to me that if you had 100 employees, you'd get some kind of discount over the guy with three employees.

Mr. Ron Johnson: It's relative, isn't it, to the size of the job. So basically it's a per cent of payroll, and if the payroll is \$1 million on a job, it's a per cent of that; if the payroll is \$1,000, it's a per cent of that. So it's relative to the size of the job, number one.

Number two, I think when it comes to the payroll or the cost side, my smallest contractors, who have 40 tradesmen working for them, are more in support of this legislation than my bigger ones are. So the argument that the small business person is going to be hit by this, and hit hard, is false. The small contractors are out there trying to compete every day, and they're operating safely, paying premiums, above board, above-ground

economy, the whole thing, and they're getting beat every day on jobs by people operating within the underground economy. That's who's beating them: people who aren't paying the payroll taxes, not supporting the system and not carrying their fair share of the weight in terms of the WSIB system.

The Acting Chair (Mr. Joe Dickson): I would now go to the government side if there are questions.

Mr. Vic Dhillon: Thank you, sir, for your presentation. It's my understanding that you had sent an email to John Tory regarding this issue. Your e-mail referred to a change in his position. Could you elaborate somewhat about that change to this committee?

Mr. Ron Johnson: What I would do is reiterate what was said in the House, and I've got no problem with that. We obviously met with Mr. Tory on this issue. He was in favour of WSIB reform. He certainly told us that he was in favour of ensuring that everybody pays their fair share, that nobody within the system should be receiving benefits if their premiums have not been paid. I have no trouble whatsoever speaking to that issue because, quite frankly, the position I hold today is the exact same position that Mr. Tory held less than a year ago. So I am a little surprised that the Conservatives, and my good friend Mr. Hudak here—

Mr. Tim Hudak: We miss you, Ron.

Mr. Ron Johnson: —who I sat with a little while in the Legislature—I'm a little surprised that there is so much opposition coming from the Conservatives on this, given the statements of Mr. Tory in the past.

Mr. Vic Dhillon: My next question is, can you explain—

Ms. Laurie Scott: Have you got the e-mail?

Mr. Ron Johnson: I didn't-

The Acting Chair (Mr. Joe Dickson): Government question, please.

Mr. Vic Dhillon: Can you explain this bill's ability in helping to reduce the underground economic activity?

Mr. Ron Johnson: I think that benefit is self-evident, really. At the end of the day, when you capture or force a greater part of the construction sector—and this is important to realize within construction. I would contend that some of the largest components of the underground economy today are operating within the construction sector. I would argue that the largest number of illegal workers within the province of Ontario are currently working within the construction sector.

This is not the solution, but it is a step in the right direction to address that, and the bigger the net you cast over these individuals who are independent operators, who work in the underground economy, who do not pay in many cases—despite what some legitimate small business owners say, and I happen to agree with them. If you're a legitimate small business owner and you're paying your fair share, I'm all for that—good on you—but there are a whole host of them out there doing work that are not. They are not paying income tax, they are not paying WSIB, and if there is going to be some sort of enforcement mechanism tied to this legislation that will see that the WSIB premiums are paid, it's another tool

for inspectors to go on-site and ensure that people are operating above board.

The Acting Chair (Mr. Joe Dickson): You're finished, sir?

Mr. Vic Dhillon: Yes, thank you.

Ms. Laurie Scott: I just wanted to know if I could do a point of order in response to Mr. Johnson's accusations about what Mr. Tory had said in the past. So if I have your permission, if I could read into the record Mr. Tory's response to Mr. Johnson that he sent on November 13 regarding Mr. Tory's position on WSIB reform and the elimination of the underground economy. Do you want me-

Interjection.

Ms. Laurie Scott: Yes. I just want to quote what Mr. Tory did tell the CFIB in 2006.

"First ... the WSIB ... which remains a growing taxation burden—felt most acutely by Ontario's small businesses. For instance, in construction—an area already hard hit by taxes, regulations, and competitive pressures—the WSIB wants to force single-person contractors—who often have the smallest margins of all—to start paying premiums. And the McGuinty government appears to want to let them. Outside of being a cash grab, I ask, why? What is gained by forcing the self—'"

Mr. Vic Dhillon: On a point of order, Chair: With due respect, the opposition has had a chance to make their point. They've spoken within their allotted period of time. There wasn't anything incorrect said and-

The Acting Chair (Mr. Joe Dickson): Thank you. Was that the end of the statement from Mr. Tory?

Ms. Laurie Scott: No, I have more.

The Acting Chair (Mr. Joe Dickson): Would you like to submit the rest of it in writing?

Ms. Laurie Scott: I can hand it in.

The Acting Chair (Mr. Joe Dickson): That would be

appropriate, if you would.

Mr. Tim Hudak: On a point of order, Chair: There were references made by Mr. Dhillon to comments Mr. Tory made. Ms. Scott is trying to correct the record. I am pleased that she will distribute that to members, but I think she should finish the-

The Acting Chair (Mr. Joe Dickson): What I have said is that I have appreciated what she has said. She has generally presented the thrust of her presentation. We'd be pleased to accept the written documentation for the records.

Mr. Tim Hudak: My point, with respect, is—

The Acting Chair (Mr. Joe Dickson): I appreciate that, Mr. Hudak.

Mr. Tim Hudak: —if we get it in Hansard—

The Acting Chair (Mr. Joe Dickson): Mr. Hudak. you're not the Chair.

Mr. Paul Miller: On a point of order, Mr. Chair—

The Acting Chair (Mr. Joe Dickson): Is there anyone else left who would like a point of order?

Ms. Laurie Scott: No, we're not finished yet.

Mr. Paul Miller: We may go back. There may be someone else.

The bottom line here is I agree with my colleagues that if there is something that's been said that may be misdirecting the overall situation of the committee in their thoughts and when they're going to make their decision, then if this is important to the opposition that they read that into—I don't think that anything should be omitted or not allowed to be finished, Mr. Chair. I think they should be allowed to do it.

Mr. Ron Johnson: May I just respond?

The Acting Chair (Mr. Joe Dickson): Did you want to respond? Maybe some clarification would resolve this whole issue.

Mr. Ron Johnson: Absolutely, First of all, I find it a little ironic that Ms. Scott would like to quote John Tory's comments to the CFIB. I never once suggested he-

Ms. Laurie Scott: I haven't finished the e-mail.

Mr. Ron Johnson: I'm sorry?

Ms. Laurie Scott: I haven't finished the e-mail.

The Acting Chair (Mr. Joe Dickson): Excuse me, Ms. Scott, the gentleman has the floor.

Mr. Ron Johnson: It has no relevance to what Mr. Tory told my contractors in 2007—zero relevance whatsoever. What he said to the CFIB four days ago in response to committee hearings has no relevance whatsoever to what he told our contractors in 2007.

The Acting Chair (Mr. Joe Dickson): Okay. Further?

Ms. Laurie Scott: On a point of order, Chair: I wanted to read the entire e-mail which Mr. Tory sent to you, to put it on Hansard. It does address what you have just stated, if you would allow me to finish reading the e-

Interiection.

Ms. Laurie Scott: To be put in Hansard? I can talk quickly, if you wish.

The Acting Chair (Mr. Joe Dickson): How much is there?

Ms. Laurie Scott: It's another minute and a half at the

The Acting Chair (Mr. Joe Dickson): I can give you a minute and a half—but I am timing you.

Ms. Laurie Scott: Thank you very much. I'll con-

"And the McGuinty government appears to want to let them. Outside of being a cash grab, I ask, why? What is gained by forcing the self-employed contractors to pay premiums? It is a solution in search of a problem.'

"The reason why the PC caucus and I are so opposed to Bill 119 is precisely because it fails to address the concerns of small business people.

"It increases rates and costs to business people without a drop of reform.

"And, in so doing, creates a further advantage to dishonest businesses at the expense of hard-working, honest folks.

"As you know the Ontario PC Party has always been a strong partner with small business in Ontario and we will always speak up for these hard-working people that drive our economy.

"We have stated publicly many times that the problems with WSIB run very deep and that it will take real, significant changes to address the system as a whole. We made these comments to your COCA 2007 election survey.

"WSIB-

"'We are mindful that expanding mandatory WSIB coverage is a problematic issue for COCA and its members, and believe there is a strong business case for undertaking a broad review of WSIB's mandate and operations. We do believe, however, that any review of the WSIB requires very careful consideration and thorough consultation with all stakeholders.'

"We said then and we say now that the government should be having meaningful consultation with stakeholders, like you, rather than ramming this bill through

and limiting the public's input.

1600

"Why is the government not cracking down on cheats? Why is the government not addressing the larger, serious problems facing the WSIB? Why, at the worst time possible, does the government think it makes sense to increase costs for small business people without doing anything to improve the system?

"We think because of these unanswered questions, and

more, this attempt at legislation is a bad idea.

"I enjoyed my visit to your facility and I was glad to comment on the problems with WSIB and the need to curb the underground economy—in fact, the failure of Bill 119 to address these problems remains one of my greatest critiques of it.

"I want to thank you again for your e-mail and I look forward to working with you on future issues to get

Ontario back on top again.

"Regards, "John" Tory

Sent to Ron Johnson on November 13. Thank you.

Mr. Ron Johnson: I'd like to respond briefly, if I may, Mr. Chair.

The Acting Chair (Mr. Joe Dickson): Absolutely.

We're going to bring dinner in at midnight.

Mr. Ron Johnson: I find it somewhat ironic that I would get that e-mail, now three or four days ago, given the fact that I had requested to appear in front of the committee and that there had obviously been some dissension on our part with the position of the Conservatives. I guess now he's certainly willing to consult with the industry. I would suggest that he probably should have consulted with us before he made his policy declaration several weeks ago.

The Acting Chair (Mr. Joe Dickson): Thank you very much. I appreciate that.

Mr. Ron Johnson: Thank you.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Acting Chair (Mr. Joe Dickson): The next presenter is the Canadian Federation of Independent Business. Welcome. Please introduce yourself.

Ms. Judith Andrew: Good afternoon. I'm Judith Andrew, vice-president, Ontario, with the Canadian Federation of Independent Business. Joining me is Satinder Chera, CFIB's Ontario director.

The Acting Chair (Mr. Joe Dickson): Could you speak just a little louder? That would be great. Thank you.

Ms. Judith Andrew: Should I repeat what I just said? The Acting Chair (Mr. Joe Dickson): No. We're good. Thank you.

Ms. Judith Andrew: Thank you for the opportunity today. If everyone has their kits, I'm speaking from a statement in the kits. There are many more interesting pieces which I hope you will peruse as we go along.

From the beginning, employers have been required to foot the bill for their employees' workers' compensation coverage. Optional workers' compensation insurance is already available for leaders of companies, independent operators, sole proprietors, partners in partnerships and executive officers of corporations. Bill 119 proposes to make workplace disability insurance coverage mandatory for these categories of persons in the construction industry and, further, to make them purchase that coverage from the Workplace Safety and Insurance Board.

This wrong-headed legislation will hurt some 4,500 CFIB Ontario construction members and many more businesses in the sector and beyond. Most of them won't have a chance to speak during these very limited hearings in Toronto. Many will not know what the Ontario government is about to do. It has been just a month since CFIB learned that brand-new Labour Minister Fonseca had wowed a union construction audience in Windsor by announcing he would proceed with mandatory WSIB coverage legislation.

For a government that professes to be concerned about the democratic process, the failure to consult and the lightning speed with which the government is rushing this controversial legislation through are certainly disturbing. Ontario's WSIB is doing what any self-respecting monopolist would do: It is aiming to grow its monopoly power, its clout and its money. WSIB efforts to find an ill-informed, unsuspecting Minister of Labour willing to sponsor mandatory coverage legislation have persisted through successive Ontario governments and WSIB leaders.

CFIB responses to some of these attempts are in your kits. The first one goes back to 1989. There are several that we couldn't put in just because of the length, and the most recent one is from 2006. Regrettably, we are all here today because the big-union, big-business politics of the situation trumped, at least for the moment, the very negative ramifications of mandatory coverage for small business, for the WSIB, actually, and certainly for the government sponsoring it.

The government has put forward a number of policy reasons for bringing in mandatory coverage in construction. None of them stand up to examination.

Myth number one: Mandatory WSIB coverage will improve safety on the job.

Reality number one: Construction firms currently registered with the WSIB pay premiums on payroll for employees. They participate in experience rating and they apply prevention information and training from the Construction Safety Association of Ontario. Making these law-abiding firms pay, on average, \$11,000 more for their owners under Bill 119 will not improve workplace safety. On the contrary, this policy will leave these firms with less money to attend to workplace safety or any other imperative they may have.

Independent operators, those without employees, do not presently have access to the safety and training resources of the Construction Safety Association of Ontario. If the government really cared about safety for independent operators in construction, it wouldn't be letting the WSIB fleece them for an insurance product they can already buy voluntarily now. Instead, it would make the safety resources of CSAO available to them at a nominal charge.

Myth number two: Individuals need access to WSIB coverage for financial compensation for lost earnings, certain health care costs and job retraining services. Owners, executive officers and independent officers are incapable of making their own decisions regarding whether to buy and from where to purchase the coverage.

Reality number two: Leaders of companies are responsible for their own livelihoods. They know what insurance protections they need and they're capable of choosing their preferred insurance carrier. Many business owners report that their superior 24/7 insurance is less expensive than the WSIB product. The Ontario government via Bill 119 is forcing business owners. executive officers and independent operators to buy the WSIB insurance that no one wants. If the government were serious about expanding WSIB coverage, it would work on making the WSIB improve its operations and offer an attractive product that would actually sell itself.

Myth number three: Mandatory WSIB coverage will catch the underground operators and cheating in the system and level the playing field.

Reality number three: Under this policy, WSIB's ability to find the cheats in the underground will not improve. With this increased incentive to hide, underground operators will likely dive further underground while some others may have to resort to cheating in order to survive. Making the above-ground operators further subsidize the cheats penalizes the good guys unfairly and, far from levelling the playing field, this policy means a tilting of the playing field against small business, as the WSIB premium increases for the leaders are disproportionately large for them.

If the WSIB or government was serious about clamping down on cheating, it would follow the lead of the Canada Revenue Agency or the Canada Employment Insurance Commission; it would stop complaining and it would actually do the job of figuring out who is an employee and who is not. It would also seriously investigate a named-insured approach, as Premier McGuinty promised in last year's provincial election. The election

checklist is just on your left in the kit. I was interested in hearing the debate about Mr. Tory's position. Well, it's written there as well. So it would facilitate the tracking of who has paid-up coverage through named insured and would change from insuring overall payroll to insuring employees by name.

Myth number four: With company owners, executive officers and independent operators in construction contributing to the system, WSIB construction premiums would actually decrease overall.

Reality number four: Assuming the WSIB manages to collect premiums from more owners, executive officers etc., it must be noted that this is a new category of participant. These individuals are their own employer. Far from increasing funds to the WSIB, this category risks presenting many more dubious claims, creating an administrative nightmare for WSIB. Deemed both employer and worker, the individual will be in the conflict situation of being called upon to supervise his own claim.

Contrast this with employment insurance, where it is well established that the employment insurance system is meant for employees. It's not meant for owners, because owners could potentially lay themselves off. Same thing here: WSIB claims could be submitted by the people are non-arm's-length.

We ask you to carefully reflect on these points as you consider our recommendations. The first one: Withdraw Bill 119 and address the real problem of revenue leakage: premiums not being paid for all those who enjoy de facto coverage. Start with a restructured named-insured working group and give them a refreshed mandate to clamp down on cheating in the WSIB system. Cheating hurts the good operators. That's whom we represent.

Do not take away choice in insurance carriers by mandating WSIB insurance. Permit owners, executive officers and independent operators to buy insurance policies tailored to their particular needs, with appropriate evidence of insurance coverage. I would say we're all

quite used to this. We carry our extended health cardsit's very easy. Every other type of insurance does it that way, so why can't the WSIB?

The third one: Refrain from erecting barriers to the success of independent operators. These are the lifeblood of entrepreneurship. People start businesses as individuals. They eventually grow those businesses and start to employ people. Help those independent operators by making safety association prevention services and training available to them at a nominal cost.

Finally, address the WSIB's myriad of problems, their financial and other problems, by working on improving their operations. Improving the agency's treatment of its customers is the key to doing that.

I appreciate the opportunity here. Now I would like to say one more thing. Despite the measured tone in this statement, the Ontario government should be aware of the depth of concern and the anger in our small business sector that goes even beyond the construction sector. This attack on small business, which came in Small Business

Month, is hurting business confidence at a time when the economy is shaky.

We have brought with us today a compilation of some things our members had to say about this wrong-headed WSIB legislation. As you can see, it's a heavy book—thousands and thousands of responses. This issue has drawn the attention of our president, Catherine Swift, so you can be sure that CFIB will fight for fairness to small business on WSIB coverage, and we will not rest until we achieve it, even if that means after the next election. Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much. The first questions are for the third party.

Mr. Paul Miller: Thank you for your presentation. I'm a little concerned with your comment "big-union, big-business politics." I can't disagree more. I don't classify safety of workers and the WSIB coverage of workers as big-union politics.

Ms. Judith Andrew: I thought that was a question.

Mr. Paul Miller: Oh, no, I've got lots more.

Ms. Judith Andrew: Could I respond to that? The reason we mention big business and big union is because this was announced in front of a big-union audience, and because the day it was introduced in the Legislature, there were big-business and big-union people congratulated in the government gallery for it.

Mr. Paul Miller: With all due respect—

The Acting Chair (Mr. Joe Dickson): Next question. Mr. Paul Miller: That's your perception and that's fine. I personally agree with you on one part. I think it's being pushed through too quickly. I don't think it's been thought out correctly. Our party has some concerns about exemptions and things like that. We do have concerns and we'd like to see that worked out in committee. We don't agree totally with the concept, but the basis of the concept is good because there are 90,000 people in the construction industry. I don't know how many people you represent from the construction industry, but I'm a tradesman and I'm well aware of what goes on at construction sites and on building sites, and there are a lot of horror stories out there that I don't want to get into. I can go into the records and show you. I think safety plays a big part in this bill because you're now under the WSIB umbrella. I don't think it's a money grab. And the \$11,000 that you mentioned that owners may have to put out under Bill 119: I'm not sure that I agree with your statement that they would have spent the \$11,000 without this coming, if they didn't have this bill, and they would have spent an extra \$11,000 on safety. I'm not quite sure that would happen. It may have gone, directed somewhere else.

There are a few things I disagree with you on. I do agree with you that this has been pushed through too quickly. I agree that you do have to have your forum to speak about it. I think it's been a little unfair to small business people and they have a right to bring their concerns forward. But I think it can be worked out—some of your concerns. Nothing's going to be 100% for everybody, for what you like to call the big unions or

business or small business. You have to have a meeting of the minds and you have to agree on certain things to give a little, take a little. It can't be all your way, it can't be all union's way and it can't be government's way. But I believe that you haven't had a proper forum to do that and I would encourage that they do—it would have given you a better chance to address this. But some of the things I disagree with in your statements. Thank you.

The Acting Chair (Mr. Joe Dickson): Do you have a

response?

Ms. Judith Andrew: Yes. First of all, in terms of taking the high road in safety, I want to absolutely clarify for this committee that we represent small, independently owned businesses. Many of them are family-owned businesses. Safety is a top priority. We have put forward very substantial proposals on how to improve safety.

We think safety is being used as a smokescreen here, that this won't touch safety at all for our members. The people who are being asked to pay more money already have access to all the safety information and the training. The independent operators—

Mr. Paul Miller: Do they use it?

Ms. Judith Andrew: Oh, absolutely. Small firms—

Mr. Paul Miller: I disagree.

Ms. Judith Andrew: You know, the accident rate—

The Acting Chair (Mr. Joe Dickson): You have five seconds.

Ms. Judith Andrew: —in this province has diminished by over half. We have put forward a proposal to the WSIB on how to get another 50% decrease in that accident rate, a very practical proposal, taking account of the fact that most businesses are quite small in the province. We have—

The Acting Chair (Mr. Joe Dickson): Thank you very much. I'll go to the government now. Are there any questions?

Mr. Vic Dhillon: Yes. You know, construction is a very, very dangerous sector. This bill goes far and deep into addressing some of those issues in terms of creating a level playing field, reducing the underground economic activity, and to make sure that everyone is insured. To have "safety" and "smokescreen" in one line, I find that a bit tragic.

Ms. Andrew, can you confirm to the committee how many of your members, for 100% certainty, carry private insurance coverage?

Ms. Judith Andrew: That, we don't know, but we have heard from many, many that do. We think it is incumbent upon the government to know how many businesses in the construction sector have private insurance coverage. When I spoke to your ministry officials, they didn't have a clue. The minister didn't seem to know. It's an area that your ministry didn't bother to investigate before rushing in with this legislation.

On your earlier points about safety and levelling the playing field and all of that, you can say that as many times as you wish, but wishing those things to be true is not going to happen with this bill. There's a disconnect between the things you say you want to accomplish and what this bill is actually going to do. That's what troubles us.

It is going to hurt the good guys, the above-ground operators. It's going to let the bad guys continue to cheat the system. It won't touch anyone on safety. It will, in fact, probably be a retrograde step when it comes to safety because decent, serious proposals like the ones we've put forward for improving safety won't get any attention because everyone will be trying to do this.

The other solutions are out there. Named insured is a solution. Your government, I guess, decided to truncate the process that was going on at WSIB to try to look into named insured. My goodness, named insured is done everywhere. Employment insurance, your health insurance, every type of insurance that's out there names the risk that they're insuring. Only the WSIB insures payroll.

Mr. Vic Dhillon: Thank you. You've strongly advocated that private insurance is much, much better than the WSIB. What evidence do you have of this?

Ms. Judith Andrew: Our evidence is always what our members tell us.

Mr. Vic Dhillon: Do you have anything specific? Have you done your research in terms of—

Ms. Judith Andrew: WSIB insurance covers working hours, for one thing. When our members are buying insurance for the leaders of their companies, they're getting insurance that covers 24 hours a day. It covers them for a serious illness.

We had one case reported to us where an individual actually had taken the voluntary coverage with the WSIB—that's another thing: Our members are very concerned that they may not even be able to collect if they're forced to pay these premiums. This business owner was seriously hurt and in the hospital, and he had to commit to not having any association with his business during that period of time. He couldn't even pick up a phone call because, in order to collect the benefits, he had to be totally separate from his business.

The product the WSIB offers is completely impractical for our members. They want to buy coverage somewhere else. If the government really thinks the WSIB insurance is so great, why don't you make it great so that people actually want to buy it, not force them to buy it?

Mr. Vic Dhillon: You've advocated in the past that the named-insured system should be created, and again here today. Could you tell committee members what additional regulatory requirements would be added if the named insured were in place today?

1620

Ms. Judith Andrew: What additional regulatory requirements?

Mr. Vic Dhillon: Yes.

Ms. Judith Andrew: I'm not sure what you're getting at.

Mr. Vic Dhillon: How many more laws or regulations would have to be created to make it realistic?

Ms. Judith Andrew: We haven't looked at that. We participated in good faith in the WSIB's committee. That committee was struck, incidentally, because the Premier

promised our members, in the run-up to the last election, that there would be a serious examination of it. When we got to the committee, we discovered that it was only populated by people who actually had the secret agenda of bringing this mandatory coverage back onto the table. The WSIB participants didn't really put forward any useful contributions. Their role seemed to be to snipe at any suggestions that were made. We've written a letter to Mr. Mahoney about the deficiencies of that committee. It's in your kit—

The Acting Chair (Mr. Joe Dickson): Thank you. I'll have to go to the official opposition at this point in time

Mr. Tim Hudak: I just want to get a quick comment in. My colleague, critic Bob Bailey, has further—thank you both for the presentation. I just want to register a concern, Mr. Chair, with the tone that Mr. Dhillon, as parliamentary assistant, has taken with his questions. It's almost like he assumes that small businesses are guilty and have to prove themselves innocent, which I fear underlines the tone of this legislation.

Let me give you an example. I've received more e-mails and calls on this legislation than any in a number of years. Alan Gerritsen, from Jerry's Auto Body in Beamsville, says, "I am asking you insist that WSIB mandatory coverage not be rushed, that committee hearings be held around the province, and that other options to mandatory coverage be fairly considered.

"It will not level the playing field; on the contrary, it will tilt it in favour of large, unionized constructors. It will fail to get at the underground economy; present lawbreakers will no doubt evade the new law, and dive deeper underground. It will not make one iota of difference on health and safety; companies with employees already have access to services from the safety association." This is a typical e-mail that I've received, and I believe what small businesses in my riding are saying. I'm disappointed that Mr. Dhillon evidently does not.

The Acting Chair (Mr. Joe Dickson): Further? Mr. Bailey.

Mr. Robert Bailey: Thank you, Ms. Andrew, for coming in today and making these presentations. I get a number of e-mails from small business people. Did you just use the number 25,000 minimum that replied?

Ms. Judith Andrew: Well, there's a picture of our president, Catherine Swift, who is seized with this issue, as well as Satinder and me, getting 25,000 messages—we call them alerts—on this issue that we delivered to Minister Fonseca. We had gathered these over a period of time. This issue keeps coming back onto the table. It's such a bad idea, and yet they keep bringing it forward. In typical monopoly behaviour, the monopolist wants to grow its monopoly. We had a lot of these messages and we've still got many more. There are probably 10 or 12 to a page here. This is something that is just going to drive people crazy around Ontario.

Mr. Robert Bailey: Another issue that was drawn to my attention was that a number of small businesses—maybe you can speak to this—feel that this is just the thin

edge of the wedge, that they'll move on this sector first, and then someone will say, "Well, we still need more revenue"—because that's what it is at the end of the day: a revenue grab. Do you feel that? Do some of your members feel the same way?

Ms. Judith Andrew: Absolutely. We have the benefit of the years of pressure on this particular issue. The NDP has referred to the Brock Smith report. That was when the WSIB was asked to do its own consultation on expanding its monopoly. In the Brock Smith report they weren't just talking about independent operators and owners and so forth in construction; the agenda was much bigger then. It was all other sectors of the economy that currently aren't forced into WSIB—the financial sector and so forth—and they want to get everybody. True monopoly.

Mr. Robert Bailey: I'm also surprised that one of the biggest recipients of this legislation, the WSIB itself, hasn't raised its head. I don't know whether someone's told them to keep a low profile until this is dealt with. Does it surprise you that the WSIB, the one that's going to generate the most revenue from this, is not representing, pro or con?

Ms. Judith Andrew: Well, it does, but Mr. Mahoney is on record as saying that he thinks the mandate of the WSIB should be much larger than it is now. That's in Hansard from a review—when was that?

Interjection.

Ms. Judith Andrew: About a year ago. We used it in one of our alerts because we could see that the leader wanted to push it. We've even tried to get a response to our letter about the named-insured committee and we haven't got that in hand yet, so he is really keeping a low profile.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Ms. Andrew. That's the over-allocation of time. I thank you very much for your presentation, and I would ask that the next presenters-

Ms. Judith Andrew: Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much for coming.

MILLWRIGHTS REGIONAL COUNCIL OF ONTARIO

The Acting Chair (Mr. Joe Dickson): The next presenters are Millwright Local 2309. If you would be good enough to join us.

Mr. Don Schultz: Hello.

The Acting Chair (Mr. Joe Dickson): Good afternoon. Introduce yourself, sir.

Mr. Don Schultz: My name is Don Schultz. I'm with Millwright Local 2309 in Toronto, which is an umbrella under the Millwrights Regional Council of Ontario for the province of Ontario.

The Acting Chair (Mr. Joe Dickson): The floor is

yours, sir. Welcome.

Mr. Don Schultz: What is a millwright and what do we do? We do machinery installation; we work in all the car plants; we do turbine work at the power-generating stations, food industry, hospitals. You name it; we're in and out.

We at the Millwrights Regional Council of Ontario very much support this brief from an employee and an employer position. We believe that every employee within the construction industry deserves coverage, no matter who they are employed by. These are all hardworking individuals in a very risky physical industry. This type of work definitely takes its toll on the body and the mind over the years, due to the physical labour exerted in many different environments and climatic conditions.

Every worker should go home in the same condition they left for work in the morning. But if something were to happen at work, every worker should be entitled to proper coverage through the WSIB to ensure that their best interests and their families' best interests are taken care of.

To understand—that some workers in the construction industry are forced to make a decision between having a job or having coverage is just plain wrong. Would any of you want to have your children put in that position? I know I certainly wouldn't. The principle of an allworkers' compensation system is that workers give up the right to sue their employer for work-related injuries, in exchange for a no-fault system of benefits that are paid for by the employer. Forcing workers to pay their own premiums violates the basic premise of the system.

We at the Millwrights Regional Council of Ontario pay into the WSIB for all of our management employees and all of our secretaries. None of our secretaries will ever go on a construction site, but if one were to accidentally fall down the stairs in our office, for their sake, for their family's sake and for our own sake, we make sure that they have proper coverage.

At the millwright council of Ontario we truly believe that the WSIB are working hard to help the WSIB meet its Road to Zero mandate, which is the elimination of lost-time injuries and work-related deaths. We are the people who live it every day. We are the people who see it every day. We are the people who act on it.

I got into the trade in 1980. Back at that time, there was no safety involved whatsoever before you went out to a job site. You were just thrown on a job site. It was wrong: I was an accident waiting to happen; I was put in circumstances I shouldn't have been. A lot has changed since 1980 in the way that we do business. Whenever we do an apprentice intake, before an apprentice is dispatched to a job, they must go to a 35-hour health and safety training program at the Construction Safety Association of Ontario. This gives them the likes of injuries statistics, attitude and safety, WHMIS, Occupational Health and Safety Act, related legislation, personal protective equipment, material handling, and back care and fall protection. Before we send them out to the job after we have them, they're in school. We meet them in school and discuss it more with them. Then we meet once more before we send them out, because we know what's

out there and we know how easy it is to be in awe and that they want people to believe they can do such a good job so they'll just do whatever they're told.

1630

We know we are doing our due diligence. We continue by offering first-aid courses. If something new in the industry were to come up that will benefit our members safety-wise, we will act on it.

With thousands of unregistered independent operators in construction, there is no method for these workers to receive health and safety training. With all independent operators now applying for coverage, this would put them in direct contact with the WSIB and, by extension, with the CSAO.

The MRCO, through the construction industry, has asked governments for over 15 years to act on this problem. This legislation levels the playing field for all contractors and workers in the construction industry. In fact, it has more benefit for unorganized workers who are forced to choose between working without coverage or not having a job at all. It's about time the government acted on this issue. This legislation levels the playing field so that everyone is playing by the same rules. Not having to pay coverage gives some people an uncompetitive advantage in bidding for work. No one should have an economic advantage, between similar firms in the same industry, because they don't pay into the WSIB. To think that there are as much as \$350 million in unpaid premiums is mind-boggling. This erodes the construction coverage base. It drives up costs for employers who pay into the system, when in fact this legislation could lead to lower costs for the legitimate contractors now paying into the system. The construction industry has been calling for action on this issue for quite some time. It is good public policy.

As far as big business and small business go, we believe that this legislation will help both. It will help the big businesses by bringing down costs in the long run, and it will help the small businesses by safeguarding them against being sued, which would be very hard for them to absorb.

Within the Millwrights, we supply over 340 contractors—big business and small business—but I have to say that the majority are small business, a lot of momand-pop organizations that might employ five to 10 people.

As far as private coverage goes, the current practice shows that unscrupulous contractors will exploit any exemption within the industry to get an unfair advantage. To preserve the integrity of the system and to avoid any abuse, all who work in the construction industry must be covered.

The Council of Ontario Construction Associations notes that about 35% of the industry does not contribute to the WSIB. This is truly unfair to those that do contribute. Just because people have been getting away with not paying their fair share is not a reason to allow this practice to continue.

Research suggests that one of the leading contributing factors to the underground economy is the independent operator. By making all who work in this construction industry register with the WSIB, there will be a paper trail to track all contractors. It will then be easier for inspectors to check the status of a contractor to ensure that they are making their statutory remittances. If this eliminates the unscrupulous contractor, everyone, from the government to the industry, will benefit.

Bill 119 is a positive step in levelling the playing field so that all who compete for work do so on equal terms. The only reason a contractor forces his workers to accept being declared independent operators is in order to gain employment in the construction industry. This is being done for no reason other than to allow a contractor to avoid their statutory obligation to forward WSIB premiums on behalf of the worker and to pocket the savings for themselves.

Bill 119 must clarify who is responsible to pay WSIB premiums. Workers should not be forced or coerced into paying premiums.

The implementation date of January 1, 2012, is way too far off. Putting this off longer will only continue to hurt the industry. All efforts must be made to implement this policy as soon as possible. The WSIB should be given the resources necessary to implement by January 1, 2010, at the latest. The Millwrights Regional Council of Ontario fully supports this change to the bill.

The Acting Chair (Mr. Joe Dickson): Thank you very much. First are questions from the government.

Mr. Khalil Ramal: How many minutes do I have, sir? The Acting Chair (Mr. Joe Dickson): You have three minutes.

Mr. Khalil Ramal: Thank you very much for your presentation. I listened to you carefully when you talked about how mandatory coverage on construction businesses would create a level playing field for everyone, and everyone would be able to bid on a job equally. But you didn't talk much about how much this bill, if it passes, would affect and improve the health and safety for the workers in this construction business.

Mr. Don Schultz: What it would do is that, paying into the WSIB, you'd be in contact, then, with the Construction Safety Association of Ontario. Right there, they would be an avenue for you to get safety training, which I think is pertinent on the job—knowing the green book, knowing your rights—but also taking a step forward and making sure that your members, the people who work for you, are safety-trained. Otherwise, right now the workers don't have any idea of what's out there.

Mr. Khalil Ramal: The presenter before you said at many different times that this bill, if it passed or if didn't pass, is not going to make a difference in terms of safety. So what's your answer to her? She is with us in the room. You were here when she was speaking about this issue.

Mr. Don Schultz: On the safety issue, on how this would benefit them?

Mr. Khalil Ramal: Yes.

Mr. Don Schultz: It would open the doors to the CSAO for them, which would help them then get the safety they need.

Mr. Khalil Ramal: She was speaking about how private insurance would be a lot better than WSIB. You know we are trying to introduce this bill in order to create a level field, for all the people to have one coverage across the board, since not many people who are working in small business, especially in the construction business, have the insurance to protect their workers, which was proven by many different people. Nobody has the statistics or evidence that those people working on a construction site would be covered through their insurance or through other coverage.

Mr. Don Schultz: In the business we're in, you're going from job to job. You could be there from one day to two years. I don't know of any of our contractors who have private insurance, because there's so much movement. You move from contractor to contractor. I understand what you're saying, where you're looking at one controlling—but in the construction industry, you have to have some coverage. It would be so hard to control if every contractor had a different insurance plan. I've never seen any out there other than the WSIB.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We'll now go to the official opposition.

Ms. Laurie Scott: My question: Since 2003, do you know how much your organization has contributed to the Ontario Liberal Party?

Mr. Don Schultz: To be honest with you, I don't. That would be higher than me.

Ms. Laurie Scott: I just want to let you know that, according to records from Elections Ontario, there have been contributions—I believe they're over \$1,200—that have been donated to the Ontario Liberal Party. Do you not feel—

Mr. Don Schultz: That would come from the political action committee, which would be above me. I have no control of that.

Ms. Laurie Scott: I'm just putting it on the record that that's from Elections Ontario, just so you know. I wanted to ask if there's a connection that you know of with your association to the Working Families Coalition of 2007.

Mr. Don Schultz: This act has been going on long before the Working Families Coalition even started. So we were pursuing this before. Are we involved? Absolutely.

Ms. Laurie Scott: Okay. So you were part of the Working Families Coalition in 2007?

Mr. Don Schultz: Yes.

Ms. Laurie Scott: That's good to know. I think what we are saying here is that there's a lot of behind-thescenes smokescreen going on with respect to safety. Small businesses were not consulted. Small businesses have been degraded into the underground economy, in the same category—the minister has put them in with that, saying they do not respect their workers, that they do not give them proper insurance, and that is not true.

You've heard many deputations here this afternoon. I just want to say to you that small business and medium-sized business have not been heard from. We've heard that many times. I've heard it from my riding continuously—tons of e-mails.

Do you think there was proper consultation on this bill before it was brought forward?

Mr. Don Schultz: We have a lot of small business contractors. What I mean by that is mom-and-pop organizations.

Ms. Laurie Scott: Small and medium-sized businesses are less than 100, so it's mom-and-pop but it includes more.

Mr. Don Schultz: They're the ones coming to us, more than the big business guys, and saying, "Okay, help guide us." We want to do what's best for the worker out there, and what's best for the contractor also. We don't want to put anyone in a bad position.

Ms. Laurie Scott: Okay, so when I say that, would you agree to a named-insurance system, a named insurer—why it wouldn't work?

Mr. Don Schultz: That's up to the individual contractors, because they're the ones putting out the insurer.

Ms. Laurie Scott: So you don't have an opinion on that, or do you think that that system would work if people had a choice between private insureds and WSIB?

Mr. Don Schultz: I think that system would work, but—

Ms. Laurie Scott: So you could have a choice. It doesn't have to be mandatory WSIB. It could be—

The Acting Chair (Mr. Joe Dickson): Ten seconds.

Ms. Laurie Scott: —a named insurer. That's fine, Mr. Chair. Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We'll now go to the third party.

Mr. Paul Miller: That was an interesting exchange. I personally don't see the relationship between political donations and safety and health and the WSIB, but that's interesting.

But moving along, from my personal experience, I've been an industrial mechanic/welder/fitter for over 30 years in heavy industry, so I'm well aware of accidents. I'm well aware of companies that have come into major plants as subcontractors and there have been some serious—there have been fatalities because workers weren't properly trained.

From a union perspective, as a union leader, I know we have trained our people—level 1, level 2—and we have ongoing safety and health programs, ongoing safety and health meetings in our plants on a regular basis to make workers aware of their surroundings. Our fatalities have gone down immensely. In the steel industry, which I can speak of, it's gone down immensely in the last 15 years.

I know that at least 40%—the small business people say there's no relation between safety and health, and there absolutely is; it's a big part of it. My humble opinion is that safety and health play a major role in any industry. Not only does it keep the premiums down, but

the fewer people who are injured, the better for our system, and the better for them to go home to their families. It's a win-win.

Now, there are a lot of small groups that work, and they're worried; they're saying it might cost them \$10,000 more a year. I'm not sure that they can't pass those costs on somewhere else in their business that would alleviate—but it would also protect their workers.

My concern, if I were a small business owner: Priority one would be that my people who are working for me would go home safe at night. So that's my opinion. Would you concur with that opinion?

Mr. Don Schultz: Yes, I would.

Mr. Paul Miller: Speaking from my experience, I have seen fatalities personally, and it's an awful, gory situation. Companies weren't aware. They had people who weren't trained, or people who were underage, or there might have been a language barrier or there might have been some problems. But these people were not aware.

The Acting Chair (Mr. Joe Dickson): Thirty seconds.

Mr. Paul Miller: Two guys died at Dofasco. They were in a pit and they were gassed because they weren't aware of the levels of gas at different levels. Our people would have trained them. But that was a non-union environment.

I have to say that they're moving in the right direction. There are things that I don't agree with that should be changed, but I think that can be done at committee level to suit all parties.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. Miller, and thank you very much for your presentation today, sir.

COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

The Acting Chair (Mr. Joe Dickson): The next presenter is the Council of Ontario Construction Associations. Welcome, gentlemen. Please introduce yourselves for the clerk.

Mr. Ian Cunningham: My name is Ian Cunningham, and with me is David Zurawel. We're both from the Council of Ontario Construction Associations.

The Acting Chair (Mr. Joe Dickson): The floor is yours, sir. We will have 20 minutes for presentation and/or part of question and answer.

Mr. Ian Cunningham: Good afternoon, Mr. Chair, and thank you for the opportunity to appear before the committee today to speak to Bill 119, An Act to amend the Workplace Safety and Insurance Act, 1997.

My name is Ian Cunningham, and I'm the president of the Council of Ontario Construction Associations, or COCA, as it is better known. I'm joined today by David Zurawel, our vice-president of policy and government relations.

Founded in 1975, COCA is an advocacy organization representing the interests of the industrial, commercial,

institutional and heavy civil sectors of the Ontario construction industry, representing their views to the provincial government.

We are a federation of 36 local mixed, prime contractor/builder and trade associations representing approximately 10,400 employers and more than 420,000 skilled tradespeople. The total value of our work in 2006 represented more than \$23 billion to Ontario's economy.

It has long been recognized that the underground economy has accounted for a significant revenue drain to the Ontario government and its agencies. It is for this reason that COCA supports the principle of the Ontario government's decision to mandate WSIB coverage for the construction industry with the introduction of Bill 119. A system of mandatory coverage can be an effective tool to stemming this revenue leakage.

As you have already heard from earlier presenters and almost certainly will from parties still to appear, the construction underground economy represents a significant strain on the WSIB.

A research study published in April of this year by the Ontario Construction Secretariat, entitled Underground Economy in Construction—It Costs Us All, highlighted some sobering statistics as to the size and scope of this very real problem.

Among the key findings of this study conducted between 2003 and 2005 are:

—The best estimated total annual losses to the Ontario government and its agencies from underground economic activity in the construction sector totalled \$2 billion.

—The WSIB's share of this revenue leakage as a result of inaccurately classified independent operators is estimated to be \$143 million.

—Approximately 22% of people working in construction are doing so in underground, equalling approximately 84,500 people in each of the years of the study.

Of equal importance is the unfair business environment fostered by such practices. Companies that pay WSIB premiums are held to a competitive disadvantage against other construction firms that do not. Businesses not paying into the WSIB system use the value of the money saved by not paying premiums to underbid the work of their compliant competitors. As a result, the underground operator wins the business. Adding insult to injury, if someone working on that project is injured on the job, because they don't pay into the WSIB system the rest of the industry bears the burden of costs of the claim.

While research indicates that the WSIB's recent collaborative efforts with the Canada Revenue Agency "have led to a reduction in the rate of underground activity... the amount of underground income has increased." An effective mandatory coverage system has the potential to level the business playing field across the construction industry. It can do this by:

—eliminating loopholes in the current insurance system that provide opportunities for individuals to avoid paying insurance premiums;

—clarifying who is responsible for paying premiums to the WSIB; and

—more easily and accurately identifying a person's status with the WSIB.

The result of such a system would be a more comprehensive, efficient, stable and sustainably funded workplace safety and insurance system providing improved services. It is for these reasons that COCA supports Bill 119 as a step in the right direction.

Another important step forward taken by this legislation is the introduction of new liability provisions. Sections 141.1 and 141.2 specify that the engager of the contractor or subcontractor may be responsible for payment of WSIB premiums; this is not new. But more importantly, the legislation goes on to state that, if the engager hires an independent operator to perform construction work and obtains proof of insurance from the WSIB in the form of a clearance certificate, they will be free from any liability for unpaid premiums or financial penalties should that individual be found to be working outside of the system.

1650

This limiting of liability to the engager of construction is significant, as it does not exist in the current legislation. It clearly identifies that the onus for up-to-date and accurate workplace safety insurance rests with the independent operator and indemnifies the diligent engager.

Also important are the bill's provisions for a new system to verify insurance coverage. Permitting the authority to make regulations, the legislation can require construction employers to provide the WSIB with detailed information about their workers and for workers to carry an approved identification card. If passed, COCA will be looking forward to working with the WSIB and the rest of the industry to develop such a system.

Bill 119 promises to make a number of improvements to the construction sector. However, there are two issues on which our membership is eager to work with the Ministry of Labour and the WSIB in the hope of realizing a mutually acceptable and constructive result. We have been consistent in our support of the government's intention to implement a system of mandatory coverage and extended coverage to include independent operators for the construction industry. However, an issue that must be addressed is the elimination of the exemption from WSIB coverage for executive officers; namely, presidents, chief executive officers, chief financial officers, vice-presidents and so on. COCA maintains that these individuals, who do not perform construction work or who are not exposed to the risks associated with attending a construction site, should not be compelled to carry WSIB coverage. These individuals notwithstanding, if an individual is exposed to construction risk, they must have WSIB coverage.

COCA understands the very real potential for abuse that a broad executive officer exemption would create, allowing individuals to classify themselves as executive officers simply to avoid paying for coverage.

If this bill is passed, it is hoped that this issue could be reviewed by the WSIB so that some form of acceptable compromise could be realized through regulation. Extensive consultations within the joint advisory implementation group produced a report in 2004 containing a number a recommendations, including an exemption for what could be called the "legitimate executive officers" based on the WSIB's definition for small business exemptions. It is COCA's suggestion that this formula for exemption could serve as a model to determine the threshold for a "legitimate executive officer."

As a final point on the issue of executive officer coverage, if the government feels that "legitimate executive officers" who are not at risk must be included in the system, then we urge that, through consultation with the WSIB, these individuals be assigned a premium that is commensurate with the risk they represent. While this is not the preferred compromise, if the government feels executive officers who do not perform construction work should pay a premium, that amount should be fair relative to the nature of their work.

A second issue of concern for our members relates to the exemption from mandatory coverage for the home renovation sector. Given the significant portion of this segment of the industry that is believed to be operating in the underground economy, it is our fear that the exemption, as currently written, would transfer the cost of these home renovation WSIB claims on to the rest of the construction industry. COCA would like to work with the rest of the industry and the WSIB to amend the language set out in Section 12.2(5), through which regulation would prevent the manipulation of the exemption so as to allow for the creation of loopholes that could be used to avoid the payment of WSIB premiums.

Turning to the implementation of the legislation, COCA is interested in how the WSIB is anticipating capturing the projected 90,000 additional independent operators who will become subject to this new mandatory system. The limitations of current enforcement mechanisms make voluntary compliance with the WSIB essential in order for the system to enjoy widespread success. It may be that mechanisms under the proposed mandatory coverage system will have to be developed, tried, refined and tried again.

The construction industry will, however, have an interest in the rate of new enrolment because of the impact this rate will have on anticipated revenues flowing to the WSIB. It is our understanding that the WSIB is anticipating that this new mandatory system will generate \$70 million in net new revenue for the WSIB once it is up and running. It will be in the construction industry's best interests to work with the board to ensure that its projections for enrolment are realized, as the net cost or benefit of the new system will hinge on its success.

COCA is eager to review the WSIB's full working papers projecting the capture of the estimated 90,000 independent operators into the system and the premiums they will be paying. We trust that the WSIB has used a conservative approach in projecting this new income into their calculations of the unfunded liability. Overly optimistic assumptions used today regarding amounts of

new premium revenue flowing to the WSIB in 2012, 2013, 2014 and beyond will favourably but inaccurately understate the unfunded liability. We strongly urge the WSIB to use a conservative approach in these projections until they have some real experience in 2012, 2013 and beyond and are in a position to make more accurate estimates. Overly optimistic assumptions used today could lead to a dark awakening in 2013.

In closing, I would like to reiterate COCA's support for the government's decision to introduce a mandatory coverage system for the construction industry. Previous efforts undertaken to make the case for such a regime have involved considerable effort to try to develop a system to effectively combat the underground economy, create a level playing field for business, and provide adequate and stable funding for the WSIB.

Save for two issues that we are confident can be overcome, COCA supports Bill 119 in principle.

Recognizing the current constraints impacting time available to investigate this bill, COCA and its members are looking forward to working with other industry stakeholders and the government to fashion the best possible legislation that most effectively serves the interests of the industry.

Thank you very much for your time and attention. If time permits, I'm open to taking any questions from the committee.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation. We will go to the official opposition first, and that would be Mr. Hudak.

Mr. Tim Hudak: How much time. Chair?

The Acting Chair (Mr. Joe Dickson): You have two minutes.

Mr. Tim Hudak: I'll just ask a quick question.

Gentlemen, thank you very much for the comprehensive presentation. You highlight the exemption for executive officers and you'd like to see that continued. Your first preference is by legislation; if not, you would do so by regulation. You reference the joint advisory implementation group's description of "legitimate executive officers." Would you support using that definition and just putting it in the bill, rather than trusting regulation some time down the road?

Mr. Ian Cunningham: We put that out there as a discussion point. We think that we can come to some resolution where some executive officers will be defined because they possibly do construction work, they do attend construction sites and they are at risk, while there are others who do not, who are not at risk, who do not add to the risk profile of the WSIB, and consequently, we believe they shouldn't be captured in the system. We're confident that some demarcation point can be developed.

The Acting Chair (Mr. Joe Dickson): Mr. Bailey.

Mr. Robert Bailey: Thanks for coming in. Do you think we need more time to get this bill right? I see you mentioned that in your closing remarks. Do you see that there seems to be a constraint and we're being shoved to implement this?

Mr. Ian Cunningham: The bill did come upon—although this is not the first time mandatory coverage has been discussed. We've had discussions within COCA, again and again, through the years, on mandatory coverage and have long held a position in favour of mandatory coverage.

1700

It did come upon us this time with little warning. I would say that we've had good discussions with many stakeholders. We've been very actively engaging our members, very actively—

The Acting Chair (Mr. Joe Dickson): Twenty seconds.

Mr. Ian Cunningham: —engaging other construction stakeholders; discussions with the ministry on this bill. More time might have made life easier for us.

Mr. Robert Bailey: Thank you.

The Acting Chair (Mr. Joe Dickson): Questions from the third party, Mr. Miller.

Mr. Paul Miller: Thanks for coming in, gentlemen. I have to dovetail on the executive officer theme. I have some concerns that there are too many executive officers. I mean there's too many who may go on a job site and classify themselves as executive officers, so I have some real concerns, as you do. I would like to see limitations on who is considered an executive officer. If they set foot on a construction site, then they have to be covered in some way or form, and I don't believe private insurance is the way to do it. If I owned a construction company, most likely I'm going to attend the site on occasion, so I would expect them to be covered too. Not all of them: If you're a secretary at the head office or you're somebody like that who doesn't go to the construction site, that's different. That's a different ballgame.

I have some concerns about the home renovation situation. I would like to see that addressed and straightened out and made feasible for the ma-and-pa groups who just do this part-time, so that we don't eliminate them from the business situation, but there could be things that can be worked out. I'm not sure I accept a complete exemption on that either, so we're going to have to take a look at that. I think we can do that.

Do you feel that you could accept the fact that executive officers could be limited to an organization—depending on the number of employees, who's deemed an executive officer? If it's one or two, could you deal with a low number?

Mr. Ian Cunningham: I think the best case is one where those executive officers who are not exposed to construction risk should not be compelled to be captured by the system.

The Acting Chair (Mr. Joe Dickson): Twenty seconds.

Mr. Ian Cunningham: It's their exposure to risk. It's not an executive compensation plan.

Mr. Paul Miller: Right. I'd like to meet somebody who owns a construction company who doesn't go there. There aren't very many of them, unless they're huge and

they're in Montreal or something. That's interesting. Thank you.

The Acting Chair (Mr. Joe Dickson): We'll go to the government.

Mr. Vic Dhillon: Thank you, Mr. Cunningham. I just want to start off by thanking you very much for supporting this bill in principle. Could you tell us the composition of your members? Are they large, small?

Mr. Ian Cunningham: Our membership is, across the province, large, medium and small-sized construction businesses, generals, trades, so all aspects of the ICI construction industry.

Mr. Vic Dhillon: You mentioned sections 141.1 and 141.2. Could you expand for the committee how this section of the bill will help?

Mr. Ian Cunningham: Do you want take that, David?

Mr. David Zurawel: Sure.

Mr. Vic Dhillon: It's on page 3, the bottom of page 3. The Acting Chair (Mr. Joe Dickson): Thirty seconds.

Mr. David Zurawel: Sure. What are you referring to? Mr. Vic Dhillon: There was mention made about sections 141.1 and 141.2.

Mr. David Zurawel: Oh, right. What that's doing for us—I mean what's important here is the liability for the person who is going to be held responsible—I guess the person who's going to be responsible for ensuring that premiums are paid and that the person who is doing the work on a site is the one who actually contracts the work. I think this speaks to the issue of independent operators and some of the problems with them not being captured appropriately. If you're a general contractor, you have a job and you're bringing in a different subtrade to pave the driveway in front of the building and that person who has been engaged to do the paving—the subcontractor subcontracts. What's going to happen with 141.1 and 141.2 is that—

The Acting Chair (Mr. Joe Dickson): Five seconds.

Mr. David Zurawel:—if the subcontractor goes and subcontracts again, the final liability for making sure that those premiums are paid rests with the person who brought in the subcontractor. So it wouldn't be the general contractor who would be held responsible, it would be the person who brought in the helper for the helper.

The Acting Chair (Mr. Joe Dickson): Thank you

very much.

Mr. Vic Dhillon: Thank you very much again.

The Acting Chair (Mr. Joe Dickson): Thank you for your presentation this afternoon, gentlemen.

OVERHEAD DOOR

The Acting Chair (Mr. Joe Dickson): Our next presenter is Overhead Door. Welcome. Please introduce yourself, sir.

Mr. Gordon Schmidt: My name is Gordon Schmidt. I'm a representative, and actually even a member, of a Burlington-based, small, family-owned and -operated business. I am here today in strong opposition to the

amendments proposed in Bill 119. I have been sitting here for a little more than two hours today and have heard time and time again that there is no representation directly from the small business community. I choose to voice myself as being that representative for, in all honesty, there are a great many small businesses that, not just by fault of geographic location, literally cannot afford to send representation here today.

The prospect of such legislation becoming law is exceptionally disconcerting to myself and to a great number of individuals both within the construction sector and outside of it, for this has far-reaching implications outside of just our sole little sector. I feel it's worth noting that when we're talking about the construction sector, I've also heard very isolated, specific sectors being focused on and the problems they are in. When we're talking construction, there's a vast array of different trades that are included in that category that will be adversely affected by this legislation. I find the time frame in which this proposition has been pushed through is exceptionally disconcerting. From the time that it was tabled by the Honourable Peter Fonseca to the time it received second reading in the House, there was a period of less than 24 hours.

The third reading has been limited to a one-hour discussion. This is hardly enough time to make a proper assessment as to the true implications and ramifications that this legislation would impart to the construction industry and to those surrounding it. Fortunately for those here today, I've spent the last two and a half weeks doing my research, and I've come up with a great number of counter-arguments to enacting this legislation.

I've also heard a great many times, with regard to the WSIB's intent toward this legislation, about how perhaps certain political parties have their hands in their pockets or have the unions' hands in them, and that this is just a cash-grab scheme. I'm going to choose not to take that stance, for the mere fact that for any of those here today who are in favour of this bill, I simply don't find that to be a useful argument. It's certainly not going to sway anyone's opinion. So I've chosen to substantiate my claims with evidence, which I will present here now.

I'd like to start off, then, with the idea that the WSIB's intent for the most part is honourable and that it is not a cash-grab scheme. Then there's a simple question that must be asked: What is the purpose of enacting this legislation? The WSIB's mantra currently is to promote health and safety in the workplace. There are two subsequent questions that would have to be asked with regard to that mantra, and those would be:

(1) How does this bill enforce and how will it propagate proper safety and health in the workplace?

(2) To what extent will it benefit those whom it would additionally cover?

Otherwise, why offer coverage if there's not going to be a direct benefit due to that coverage to the individuals being covered?

1710

To address the first question: It is the responsibility of business owners to provide a safe and healthy work

environment for all employees. This is done primarily through training. It can be done through implementation of safety protocols; it can be done through the implementation or use of equipment. In any event, however this manifests itself, with the creation of a safe work environment, inherently anyone who works within that environment is working in a safe environment. Any of those who arrange or even promote the training are themselves subject to the knowledge of that training. It seems quite counterintuitive on the one hand to allow the employer, allow owners—to put into their responsibility the promotion of health and safety to their employees, and then treat them like children by saying that they don't have the capability on their own to promote health and safety to themselves. If the WSIB's true intent is to promote a healthy and safe work environment, this bill will not do it.

I should also mention that I'm not politically motivated. I'm not here in defence of my company's bottom line. As I had mentioned, I would like to be the voice for those small businesses that would suffer most under this legislation.

One of the aspects of this amendment—I actually did read Bill 119, and believe me, I fully comprehend what I've read. Owners and those to be covered by this mandatory inclusion most often do not engage in activities that are in the same risk level as that of their employees. This was the specific reason for my mention of the different construction factors. In home construction that may be the case, but certainly not in my industry and not in a lot of other ones that I am aware of.

To force owners, executive officers and those members who are currently excluded to pay premium rates based on a rate that was determined by the risk factor of that particular industry, even though those individuals perhaps never set foot on a job site, is an unconscionable act. It should at least have a provision to pro-rate that amount or lessen the premium rate paid by that person.

This specifically would mean that my mother, who works strictly in the showroom—has never and will never set foot on a job site—will pay the same premium rate as that paid by our commercial crew working on a job site, 20 feet in the air, with steel, on a scissor lift. It just doesn't meld; it doesn't work.

Let's consider the benefit associated with having coverage. Let's just give them the benefit of the doubt. What benefit, then, is this going to provide to those covered? In the case of owners, none. It won't provide any, simply because of the fact that the costs of making a claim will undo the benefits of receiving that claim.

Let's use a mid-sized business as an example for this. An owner injures himself or herself and makes a claim. Let's say that by some wonderful circumstance their business doesn't fall because they're not there to run it, that it's able to maintain its regular business operations. Then that owner comes back into business. The premium rates for all within that business will go up, as per the WSIB's own words: Those with higher claims costs pay higher premium rates. Under the CAD-7 experience

rating, they would also be subject to penalties in the form of surcharges. Because of the increased premium payments and the surcharges, amassed over the number of employees—not just the individual—over the number of years the premiums are increased, and the surcharges that must be paid, the benefit almost completely equals nothing.

This leads into direct costs. As I said from the outset, there are a number of companies which literally cannot afford to be here today. When we're talking about these companies, and we're saying that they literally will be forced out of business because they cannot afford these additional costs—these people are not a figment of creation; they are real, they exist, and I know a good number of them personally. These are people who at the moment have every intention, every desire and will to engage in legitimate, lawful business and yet are having an exceptionally hard time doing so because of the number of regulations currently in force in the construction industry that makes it extremely difficult, as is, to make ends meet. These individuals will have no choice.

When we talk about this underground economy, there are three factors that fuel an underground economy: You've got the individuals who engage in it explicitly because they're members of ill repute and just don't feel like paying; you've got those individuals who will be forced into it or feel like they are forced into it because their alternative is to not feed their children, to not be able to pay their bills or make ends meet or to completely up and leave and venture off into the free world and try to create a brand new life, which is just not feasible for them; the third major factor—and this is one that is never going to go away, no matter how much legislation we put into place and no matter how much of a premium we pay to the WSIB—is the homeowner, the individual, the person who's willing to risk hiring illegal labour for the sake of saving a buck. This legislation does not in any regard answer to that situation there. In fact, I've also heard that this legislation is somehow miraculously supposed to reduce the underground economy. It will do no such thing. It will most definitely fuel that economy by taking these individuals who are at the breaking point—when we're talking about construction, these are individuals who have most often spent their lives building a mass of skills, of tools. This is a vocation; this, in many circumstances in construction, is an identity for those who work in it. No one is simply just going to abandon their training, their skill set, their livelihood because they can't afford this. Their company may dissolve, but they themselves do not. They will be forced then to go underground and continue to work so that they can support themselves.

In the case of the small businesses that employ a few people—let's say they employ four people. They'll have to fire those four people to cover their own costs. They themselves may be operating legitimately. They might hire one or two of those individuals back unofficially, under the table. For the remaining individuals who no longer have employment, they will be forced to try to

find employment elsewhere. Perhaps they'll create a start-up business and fuel the underground economy perpetually themselves. For the other ones who can't find work, this is going to put an additional stress of cost onto our social welfare system.

For any member who is engaged in the underground economy, we're not just talking about illegal, illicit behaviour here. For those people—I'm referring especially to the ones who feel like they are forced into that situation—they have no coverage under the WSIB, they have no coverage under EI. Not only are they not paying tax revenues, but they're not paying into their CPP fund. This is going to turn around. This is going to further punish these individuals later on in life for making a choice that they feel they have no choice but to make.

There is a particular amendment within Bill 119 that states that compulsory coverage and registration would not apply to people who do only home renovation work directly for homeowners. This wording is not ambiguous: it is very clear. This means, to a great number of small and mid-sized businesses, that they're going to have to make a choice. They're either going to focus their entire attention and effort onto home renovations contracted directly by homeowners, turning down what other jobs may come in, even though they may be residential—but because they come in through a subcontractor, they're not legally allowed to participate in it if they do not have WSIB coverage. The alternative to that is that they would have to pay WSIB premiums, which is an additional cost to them. To these companies, to whom every single penny counts in making themselves a viable working company, they can neither afford to pay the increased premiums nor can they afford to turn down any jobs that come their way. What effect do you think this will have on the underground economy?

Also, under subsection (7), it clearly states that the individuals who fail to comply, who fail to make premium payments at any given time, are subject to having their insurance revoked. It further states that those with a revoked status will be penalized for engaging in work. They will be penalized for not notifying subcontractors, other contractors, those who they are working for that they no longer have coverage.

1720

In construction, which typically is a cyclical business, they cannot guarantee that they will have the funds to be able to pay these premium rates all year round, so for the times when times are really tough and when they're trying desperately to operate as a legitimate business, this is really going to force them into an even further tough spot.

It has also been mentioned about passing these costs on to the next person. It clearly states that in the bill as well, that they have the right to pass on these additional costs. Well, how much further can we pass on these costs? The cost of materials has gone up substantially over the years: the cost of steel has gone up by 200% over the past couple of years; barring the temporary reduction that we've seen lately, the cost of energy is up

500%. These construction industries are already under an enormous amount of pressure in raising their costs yet remaining competitive. This is just another additional cost. Considering the fact that is adds no real benefit, it's just not worth it.

As far as unemployment goes, these increased costsand I've said this definitively—will force businesses under. Whether they retain employment under the table or not, this will increase the unemployment rate. This is not a time to be playing around with the unemployment rate. The global economic crisis that we're experiencing right now has caught a tremendous number of people off guard. There is a projection that's created by the Ministry of Finance. It's called Toward 2025. It's a future projection of Ontario's income into the year 2025. It's specifically stated in this that by best projections, the Ontario government will not see deficit spending until the year 2018. According to the provincial fall economic statement released October 22, we are currently in a situation where we will be in deficit spending at least for this year. This clearly indicates that nobody had any real, clear idea as to what extent this economic crisis would have on this province's economy.

We are a near decade ahead of schedule on deficit spending. We can't afford to make presumptions about the stability of this province and its ability to weather additional costs. It would seem to me that this government is quite confident in the construction industry's ability to absorb or pass on additional costs, but there's only so far that this can be pushed to the breaking point before it actually does break.

The Acting Chair (Mr. Joe Dickson): Two minutes, sir.

Mr. Gordon Schmidt: "Small changes can have major impact": This is a statement specifically in that Toward 2025 report projecting future incomes. Again, we should not ignore the fact that some people may scoff at the idea that an average of \$11,000 per industry may seem like a small number. This is an average, mind you, and to those like I say who are already teetering on the brink, this will push them over the edge.

Ontario is the economic engine of Canada. We represent 40% of total employment in Canada. We represent 40% of construction employment in Canada. We also represent, as of a statement in 2007 by the Ministry of Finance, 38% of Canada's total GDP. The construction sector, regardless of the fact that it does not singularly represent the majority sector in contributions to employment or to GDP to the province of Ontario, irrespective of the industry that is at the forefront, every one of them needs infrastructure, they need buildings, they need shelter—everybody does. Construction, essentially, is the backbone that drives everything else. All other industries are predicated on the success, strength and health of the construction industry. There is a 10year upward trend in the geometric rate figures across the country in every other province in construction. What incentive is Ontario giving to new construction, to existing construction, to employees, to remain in Ontario,

to locate in Ontario, and not to relocate or establish themself in another province where it can be more assured that those governments will enact more businessfriendly solutions?

It is no secret that the WSIB wants to extend its arms to encompass a greater number of sectors. The fear of that, even the suggestion of that, is enough to drive foreign investment from this area. If anybody has any doubts as to the impact that this could have, if you take a look, prior to 1976, Montreal was the economic centre. They used to hold that title. The language laws of 1976 finally forced businesses out of Quebec, then most of them ended up in neighbouring Ontario. We are not so almighty that we are impervious to these same consequences.

The Acting Chair (Mr. Joe Dickson): That's actually about 40 seconds over your time, but you were doing such a good job that I thought it was appropriate to let you go. Thank you very much for your presentation. It's good to have you here this afternoon.

CENTRAL ONTARIO BUILDING TRADES

The Acting Chair (Mr. Joe Dickson): Our next presenter is the Central Ontario Building Trades. Welcome. Please introduce yourself.

Mr. Jay Peterson: My name is Jay Peterson. I help represent the Central Ontario Building Trades. We're a council representing over 25 construction unions and nearly 50,000 workers across the GTA. Our members are one of the best-trained, most productive and safest workforces you'll find anywhere in the world. We know this because our contractors come back from working around the world and praise us for the skills that we bring to the table. We've had a dedicated effort over the last number of years between our workers and our companies and contractors and our governments to produce an infrastructure for training second to none, second to nowhere else in the world, and this helps us build our schools, homes, high-rises, power plants, roads, high-ways and bridges.

I am in a bit of a unique position here, I think, compared to some of the speakers who are speaking because I'm a construction worker. I've worked in both the underground economy and in the unionized sector, and that has given me a bit of a perspective on how important this topic is.

I would say that in Ontario there are probably three construction industries moving right along together.

I come from the unionized construction industry. We pay taxes on all of the money that we earn. All our contributions are made to all the appropriate sources and we have unions that look out for that. If there are contributions not being made, we're on top of that. Our companies know their responsibilities. Safety is a culture among our workplaces, and that's how we build Ontario safely.

I would say the second type of construction industry in Ontario is a non-union construction industry, but it may be like the last speaker's business, a family business that cares about their employees, that tries to make their contributions and do the right thing and look after people. They probably train people. Generally, it's a team effort, without the union there to ensure anything. I have no ill words toward people and companies that are in this as a team.

But then there's a third industry that's out there—and we have to remember that construction is a mad race for the dollar. The dollar is the bottom line in construction. If there is an industry that is ripe for exploitation and cheating and taking advantage of people, it's definitely the construction industry.

In the recession of the 1990s, I took a job with a home renovator. It's a well-known company in the city that advertises at the home show. Families come down and say, "I'd like to put an addition on my house. You seem like a reputable contractor." There were Canadians representing the company, fluent in English, telling about all the good things that they were going to do in their homes. 1730

The project manager, who went from home to home surveying all the jobs and watching the crews, was Canadian and could converse well with the homeowners. the suppliers and things like that. And then there was our work crew. The foreman was Polish. He was very good at running ads in Poland on the radio and advertising a new life in Canada, "Come feel the opportunity and make a go of it." He would pick workers up at the airport, and he would graciously take them home and put them up in his basement to get them established, to help them. Then, I guess his home being in Scarborough and the addition going on in the nice home in Oakville, they needed to get to work. So the foreman would graciously offer to help them get to work. He would take all these workers he'd been housing in his basement and he'd drive them all down to Oakville. The room and board was deducted off their salary; the drive was deducted off their salary; any food or groceries—because they worked seven days a week and didn't have a chance to get out and prepare themselves properly—was all deducted from their salary. It didn't take long for the workers to realize that they were probably working for about two or three dollars an hour.

This was during the recession of the 1990s, when everyone was hungry. My union had a 60% unemployment rate. We had a food bank at our hall, where trained craftsmen would come and pick up food for their families on a weekly basis. I was darned lucky to have this job to help keep food on the table for my family. I was getting paid \$15 an hour cash. When I was asked if I would like this job, I was told that I would have to set up my own company and take care of all my deductions. "Are you up for that?" "Sure," I said. I wasn't. I'm not a businessman, I'm a constructor worker. These Polish people I worked with were not business people. They had no idea about Canadian society, rules, regulations, how to apply, where to apply, anything like that. They were just getting paid cash as well with, again, all these deductions taken off.

I worked with four Stasieks from Poland: Stasiek Moustache, Stasiek Blond, Stasiek Electrician and one Stasiek, who had been here a few years, had an old beater of a car, so he was called Stasiek Car. None of these guys was paying WSIB. If they got hurt at work, they were told to go to the hospital and tell them they were working on their car and their car fell on them or they hurt themselves around their house. It was all a lie; it was all a sham.

I think if everyone, and all of us, were mandatorily covered for WSIB, an inspector could come along and audit a company, audit a worker. If you're inside a gate, if you're on a property where there's a home renovation going on: "What's your WSIB number?" "There it is." Therefore, you're in the system, and that WSIB number denotes that this company is in the system. Therefore, they're in the training system. They're accountable, they're on board and on top of the table. That would help us with health and safety.

The workers I worked with had no fall arrest. We were on roofs. We had no propane training. We heated the house with propane. We had no WHMIS. Those workers who were straight from Poland had no idea what a toxic chemical was or anything, and they could have been exposed dozens of times, might not have known what was poison or not, and our health care system may be picking that up in the future.

I wonder if our homeowners knew exactly what they were getting for their money. I wonder if they knew that none of these people was in the system, that none of these people earned the hard money that the homeowners were paying out, and whether they were getting their value and the taxes were going back to their community to run their schools and hospitals and everything else. I wonder if they knew their liability.

If the premise of workers' insurance is to take away the ability of a worker to sue a company, it just flies in the face of logic that we would have workers out there not being able to be covered and then possibly suing homeowners who have no idea what the construction industry is about. But it opens up a liability. I wonder, with this exemption, if homeowners will be liable for accidents that happen on their own property?

I think this legislation would help with the underground economy. I think this legislation might attract some noise now, somewhat like mandatory auto insurance. If people are on a construction site part-time, then they have a part-time risk and they should be covered.

I think too that the timing is somewhat protracted and we could do this a little sooner than the date proposed. I think projects that may be started at that time aren't even on the books yet and we have a responsibility to do this sooner rather than later, and that 2010 is a reasonable time for enactment of this legislation.

I would like to say that, just like driving a car, if you're in a car you should have insurance. That protects everyone. The cost of insurance, by everyone being insured out there, lowers it for everyone. It's a more fair, level playing field when we all have insurance, and I think the same should apply for construction.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We will have three minutes each and we will commence with the third party.

Mr. Paul Miller: I'm just wondering, are there any objections you have to this bill in its present form, to renovators and to people who are considered management? Do you have any concerns? Have you read the bill on those categories?

Mr. Jay Peterson: I have read it. Just driving down here, I saw workers on a roof. No one was tied off. They were at a homeowner's. What an awful day when that worker falls splat on the sidewalk, when the kids are coming home for school.

What is the incentive? One guy knows what's going on, and he's the guy running the company. The rest of them are kids in their early 20s. These people have to be covered, they have to know what coverage is, and there's no way that company's being run without an executive officer coming out to instruct people what to do in running a small business.

I think the renovation and home renovator market is one of the most dangerous workplaces there are. I see things on local homes. Just because it's a local home you think, "Oh, there's not much harm, not much danger there," but I see things just driving here that would be banned on unionized job sites; the work would be shut down. There's no way we would work like that. This is that third industry that I'm talking about that needs to be brought into the 21st century.

Mr. Paul Miller: Okay. I have one other question and then I'm done. The founding principle of our workers' compensation system is that workers give up the right to sue employers for work-related injuries and deaths in return for a no-fault system of benefits. As a result, this legislation must clarify who has responsibility for WSIB premiums. If this responsibility is not clearly laid out, many workers will find themselves in a position where they might have to pay their own benefits in the construction industry.

Would you suggest that the person or entity engaging the worker be responsible for paying any and all WSIB premiums, and how exactly would that be done?

Mr. Jay Peterson: Are you saying that the workers should be paying their—

Mr. Paul Miller: No. Some people have insinuated that they may have to pay their own premiums if this bill doesn't come forward. How do you feel about that?

Mr. Jay Peterson: I don't think any workers should be paying their own premiums. This should be a company premium; that's what the whole premise of—

Mr. Paul Miller: And you made a point: When there were four guys working on a roof on a house, would that homeowner have to pay the coverage of those people working on that house because those people weren't covered? Could they possibly be liable and sued on their personal property? That could be a problem too.

Mr. Jay Peterson: They could be, yes.

Mr. Paul Miller: Thank you.

The Acting Chair (Mr. Joe Dickson): Are those all your questions, Mr. Miller?

Mr. Paul Miller: That's it, yes.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We will now go to the government.

Mr. Vic Dhillon: Thank you very much for appearing before us this afternoon. Can you elaborate or explain why it would be necessary for executive officers to be included in this legislation and subject to paying WSIB premiums?

Mr. Jay Peterson: Because if they're not, everybody out there is going to be an executive officer, no one's going to be paying and you're going to find yourself right back in the same spot that you are in today.

People who go onto a job site assume risk. We had a worker killed last year who just walked onto a site, and a pipe fell from the top and killed him. If you're on-site, you need insurance; if you're driving a car, you need insurance. So if you're an executive officer who regularly goes to job sites to inspect work, is involved with the goings-on of the job site, you should be insured.

Mr. Vic Dhillon: Nothing further.

The Acting Chair (Mr. Joe Dickson): Mr. Ramal?

Mr. Khalil Ramal: What about the people who do not go to the construction site?

Mr. Jay Peterson: Whether executive officers should be insured?

Mr. Khalil Ramal: Yes.

Mr. Jay Peterson: To me, it doesn't seem that that would be necessary, but there has to be some sort of system in place where actual people on-site are covered and there's a way to enforce it—just like speed limit signs of 100 kilometres an hour. If I knew I was never going to get a speeding ticket, I'd be going a lot faster than 100, probably, a lot of times. There has to be some enforcement; this has to be balanced with enforcement. Through a tracking system, we can bring this industry into the 21st century, where all the companies are up and registered and we can focus on them with training.

Mr. Khalil Ramal: You're afraid that if you have some kind of exemption, you could be creating a loophole in the system and everyone would say, "I'm not going to go to the site, and therefore I should be exempt."

Mr. Jay Peterson: Yes. So it would be IO to EO; it would be similar.

The Acting Chair (Mr. Joe Dickson): We'll now go to the official opposition. Mr. Bailey.

Mr. Robert Bailey: I'd like to thank you for your presentation. I've seen some of those incidents in the home renovation sector.

Two questions for you: Do you support some form of a named-insurance system, say, with a card similar to a health card, so that if an employee went onto a large site or whatever, he could prove that he had insurance? Second, I heard you say that you'd like to see this brought in by 2010. The government is talking about 2012. We've said all along that there hasn't been adequate time for review and input. Would you agree with that?

Mr. Jay Peterson: It has been a work in progress for over 10 years, as far as I can remember. We've done studies, we've done reports, and there has been the JAIG committee. So, to me, it's not a new issue; it's time we get on with it. That's why I'm not in favour of a four-year phase-in. But I think we can do it—matching the industry on a faster-paced basis like that.

I'm sorry, the first part—

Mr. Robert Bailey: The first part was about a named-insurance system with a card similar to a health card so you could—that has always been the bugaboo: No one knows who's insured. With a named-insurance system with a card, the employer would know that an individual is covered.

Mr. Jay Peterson: Right. As a worker—this is workers' insurance—I would be a lot more comfortable with WSIB being my carrier, because I know there's a fair system there with adjudication and I wouldn't have to fight, as an injured worker recovering and all of that, with a private health care provider who may or may not want to help me.

Mr. Robert Bailey: I'd just like to clarify: I didn't mean outside of the WSIB. As WSIB is based on payroll, some people have suggested that they'd like to see a named-insurance system under the WSIB, where you'd have a card like an OHIP card.

Mr. Jay Peterson: It may or may not be good. It might have some problems with it. I'm really hesitant to comment on something like that. I haven't really thought about that.

The Acting Chair (Mr. Joe Dickson): Mr. Hudak. Mr. Tim Hudak: Chair, we have how much time?

The Acting Chair (Mr. Joe Dickson): You have less than 20 seconds, but I'm clearly flexible.

Mr. Tim Hudak: I'll just make a final point.

Thanks for the presentation. You mentioned that it has been going on for some time. There were consecutive Liberal ministers—Peters, Bentley and Duguid—who all said no and did not proceed. Fonseca, shortly after becoming minister, is proceeding. There's a big fundraiser, as I mentioned earlier on, that's happening tomorrow night at 350 bucks a pop. So I worry, with this legislation being rammed through, that that kind of decision-making does not pass the sniff test.

I want to read into the record something from Richmond Steel in Stoney Creek. Bruce Richmond from Richmond Steel says the following in a letter to me:

"With economic conditions deteriorating on a daily basis, and large corporations laying employees off at an unprecedented rate, the province needs the help of small business to maintain current employment levels. This legislation must not be allowed to go through if we are to achieve employment stability.

"Currently, small businesses like those of the CFIB are the people creating wealth and employment in Ontario. We must be protected better than this. The WSIB is not legitimate insurance; they are another form of taxation. The WSIB must be brought under control, not given more taxation powers."

That's just one example I'd share from small businesses in my riding. This one is from Richmond Steel from Stoney Creek, and I wanted to make sure that got on the record as part of our consultations.

The Acting Chair (Mr. Joe Dickson): I was allowing your time by Newfoundland time, so it's now extended.

Mr. Tim Hudak: Thank you, Chair.

The Acting Chair (Mr. Joe Dickson): My pleasure. Thank you very much for your presentation, sir.

ONTARIO CONSTRUCTION SECRETARIAT

The Acting Chair (Mr. Joe Dickson): The next presenter is the Ontario Construction Secretariat. Welcome, sir. Please introduce yourself to the clerk. We look forward to hearing from you.

Mr. John O'Grady: My name is John O'Grady. I'm with Prism Economics and Analysis, and we do work with the Ontario Construction Secretariat. I have copies of my remarks here if you wish to have them circulated.

The Ontario Construction Secretariat appreciates the opportunity to make this representation to the standing committee. We hope that our remarks will be helpful to the committee in its deliberations. With me today are two other individuals: Mr. Sean Strickland, who is the incoming chief executive officer of the Ontario Construction Secretariat; and Mr. John Schel, who is the president of the secretariat and a member of the board of directors.

The Ontario Construction Secretariat, as many of you will know, is a joint labour-management organization. It was established under the authority of the Ontario Labour Relations Act and financed by equal contributions from employers and workers in the unionized segment of the non-residential building construction industry. The OCS was established in 1993.

The Ontario Construction Secretariat has undertaken a number of studies which I believe are germane to Bill 119. These studies have focused on the nature and magnitude of the underground economy in Ontario's construction industry, and I had the opportunity to undertake the majority of these studies or to be involved in them. I want to briefly review the key findings of these studies and explain how they bear on at least some aspects of Bill 119, particularly the provisions of Bill 119 that would make WSIB coverage compulsory for independent operators in the construction industry.

When the term "underground economy" is used, most people equate this with the cash economy, which is widespread in residential renovation. This is too narrow. The Ontario Construction Secretariat uses the term "underground economy" more broadly—and I believe properly so—to refer to any method of undertaking construction which is deliberately and in a significant way noncompliant with legislation pertaining to taxation, workers' compensation, health and safety standards, apprenticeship or employment standards, and which, by virtue of that non-compliance, confers a substantial and unfair competitive advantage. So we're not talking about trivial

non-compliance; we're talking about non-compliance which affects the nature of the competitive environment.

A key finding of our studies was that the cash economy in the residential renovation sector was only the tip of the iceberg. The majority of underground employment—we estimated 55%—is found outside the residential renovation sector. Furthermore, the majority of underground employment is not based on the cash economy but on an entirely different strategy.

Let me explain. In the construction industry, by far the most common form of non-compliance is styling employees as independent contractors—or independent operators, to use the WSIB's nomenclature—for the purpose, and I would say the sole purpose, of avoiding the costs and other obligations that arise from a conventional employment relationship. These avoided costs include: benefit entitlements under the Employment Standards Act, which is principally vacation and holiday pay, but also overtime pay; employer contributions to EI, CPP, WSIB premiums and in some instances the employer health tax, where the exemption does not apply.

Some construction contractors, of course, will argue that the persons they classify as independent operators do in fact meet the accepted common law tests of an independent contractor. However, as I will attempt to show, there is evidence that many of the individuals who are styled as independent operators are actually employees in the substantive sense of that term.

The savings in labour costs that arise from styling workers as independent operators are in the range—and this would depend on the trade and the branch of construction—of 18% to 31%. By some calculations, they can even be higher. At the same time, styling workers as independent operators also avoids the obligation to issue T4 slips and to report that remuneration. A report by Statistics Canada estimated that more than 60% of the net income earned by unincorporated construction businesses was concealed. Those are powerful financial incentives to style workers as independent operators—and I use the term "style" deliberately.

The under-reporting of income by so-called independent operators is a major source of revenue losses to governments and government agencies, such as the WSIB. In the most recent estimates that we did, which would have applied a couple of years ago, the gross estimate was approximately \$2 billion.

The styling of workers as independent operators so as to avoid deductions at source—WSIB premiums, EI and CPP contributions and Employment Standards Act benefits—is a major and unfair source of competitive advantage for non-compliant employers. Finally, excluding workers from the WSIB system removes a major economic incentive to maintain a safe workplace.

1750

How many workers are involved; how many are affected? I've circulated to the committee two graphs. They're at the last two pages of the material you have. They're based on Statistics Canada's labour force survey. The first graph shows the actual increase in the number

of construction workers who were classed or who classed themselves as self-employed. As you can see today, that number is approximately 140,000 persons. The second graph, and it is perhaps the more important, shows the increase in the share of nominally self-employed workers. Over 20 years, that share has increased from an average of around 26% to a recent average of around 33%. Moreover, fully 83% of that growth is attributable to an increase in the number of so-called independent operators.

In other words, styling employees as independent operators has become very fashionable over the last 20 years. If you trace that historically, in fact, the trigger seems to have been the introduction of the GST. In 1987, independent operators were 44.3% of all nominally self-employed workers. Over the most recent 12 months, independent operators have accounted for 63.1% of self-employed workers.

The essential fraudulence behind the practice of styling workers as independent operators cannot really be captured by the statistics. To understand the nature of the practice requires an example. The following is taken from an affidavit that was filed as part of a litigation. The affidavit describes the employment conditions of a worker who's employed as a painter and was classed as an independent operator by his employer:

"(1) For the entire 12 months of the year 2000 I performed painting work for [Company X]... During this time, I performed ... work for [the company] in the Ottawa area, mainly in the ICI sector." I want to stress that "ICI sector." This was not low-rise residential renovation.

"(2) When I was hired by the company, the company made it clear to me that I would be paid a 'straight cheque." This was not a cash transaction; "I would be paid a 'straight cheque.' The company paid me \$16 per hour for performing painting work with no source deductions whatsoever... I was not paid vacation pay.

"(3) [The company] supplied all materials, tools and equipment required to do my job, including paint, brushes, ladders, rollers etc. The company required me to be at work every morning at 7 a.m. and I was required to work at least eight hours a day. However, at times, the company required me to work more than eight hours per day or on weekends when there was a deadline to meet.

"(4) My supervisor was basically the owner of the company and he worked alongside me. As such, he was constantly supervising my work and would often push me to work faster. He would also direct me as to what he wanted done on a particular day and the area he wanted me to work on and how it was to be done." In other words, this fellow sounds very much like an employee.

"(5) During my year with [the company], the number of painters working alongside me in the ICI sector would vary. However, during the busy summer months, there were as many as 15 painters working alongside me ... [A]ll of the painters working for the company were paid in the same manner as I was, with no source deductions whatsoever ... [T]hey were also working under the same conditions as I was with respect to the supply of tools,

equipment and materials and hours worked and level of direction and supervision by the company,"

The affidavit that was part of these litigation proceedings clearly describes, in all relevant circumstances, an employer-employee relationship, but it was styled as an independent operator subcontract relationship in order to evade the obligations for deductions and so forth that are associated with an employment relationship.

The practice of styling workers as independent operators has nothing to do with changing the way construction work is undertaken or supervised. This is not about a flowering of entrepreneurship in the construction industry. The independent operator loophole is simply a licence to compete illegitimately. Bill 119 will close the independent operator loophole and, by doing so, Bill 119 will lay the foundation for more rigorous enforcement of income and employment reporting obligations and will put in place the necessary financial incentives to support overall workplace safety policies in construction. Again, on behalf of the Ontario Construction Secretariat, I express our thanks for the opportunity to meet with the committee.

The Acting Chair (Mr. Joe Dickson): Thank you very much. We will have two minutes each, commencing with the government, please.

Mr. Vic Dhillon: Thank you very much, sir, for appearing before the committee. We believe that Bill 119, if passed, will reduce the misclassification or improper styling of workers in the construction industry. How do you think reducing the improper styling will benefit the construction sector?

Mr. John O'Grady: The styling of workers as independent operators is at the heart of the underground economy. To make yourself work as a non-compliant contractor, the foundation of the strategy is to get out from under the employment relationship, or at least to create a paper trail that would seem to suggest that you've done so.

Folding workers who are nominally classified as independent operators into the WSIB opens the door to a range of enforcement. First of all, the suggestion in the legislation that workers may be required to have identification allows on-site inspection. Secondly, there's an existing statutory provision that allows the workers' compensation system and the Canada Revenue Agency to share information for purposes of enforcement so that payroll is not necessarily being audited twice, or noncompliance that is flagged by one agency is brought to the attention of another.

I see the folding in of the independent operator under WSIB coverage as being the lever that will bring about substantially increased enforcement of a whole range of obligations in the construction industry, and will make a very substantial contribution to creating a level playing field in that industry.

The Acting Chair (Mr. Joe Dickson): Thank you. That ends your time allocation. To the official opposition for two minutes, please.

Mr. Peter Shurman: Thank you, Mr. Chairman. You use the word "style" to describe people who operate on

an independent basis, but that is, in all respects, illegal now. Please tell me what you think this bill, if it should become law, will do to change that.

Mr. John O'Grady: If the independent operators must be covered, and especially if that is associated with a system of named insurance, then the auditing of payroll records, the determination of whether or not the individuals in fact are employees or whether they are bona fide independent contractors who are in business rather than employees, is much, much easier.

Right now the application of the common law test, while technically feasible, is administratively next to impossible, which is why it basically doesn't happen in the construction industry.

Mr. Peter Shurman: You have a lot of interesting statistics, and I noticed the graphs and listened to your description with interest. What I'm concerned about here and you haven't explained adequately to me—maybe it's my ability to listen well that's missing something. It strikes me that from everything you say and from the way this Bill 119 comes down, what you're doing is driving people underground. In other words, you're going to aggravate this problem, aren't you?

Mr. John O'Grady: Not at all. The way in which the statute is constructed would require any worker who's engaged in the covered portion of the construction industry, setting aside the debate over the residential renovation sector, to have premiums paid on that person's behalf—there's a mechanism set in the statute for how that is done—and it would therefore create the mechanisms by which that can be verified.

The requirement to have identification on the site then coincides with the various types of on-site inspections that already occur but which are impaired by, generally speaking, the lack of any requirement for workers to document who they are or what they're doing.

Mr. Peter Shurman: Is small business represented on the secretariat, Mr. O'Grady?

Mr. John O'Grady: By far the majority of unionized contractors—trade contractors, not generals but trades—are actually small businesses, so the majority of unionized contractors would have fewer than five employees.

Mr. Peter Shurman: I'm talking about representation on your secretariat. Is that what you're saying?

The Acting Chair (Mr. Joe Dickson): Twenty seconds.

Mr. John O'Grady: Well, that's-

Mr. Peter Shurman: Do you have small business on the secretariat?

Mr. John O'Grady: Well, the secretariat represents the bargaining agencies. The bargaining agencies would have those as members.

Mr. Peter Shurman: Will this bill impact small business in a bad way, in your estimation?

Mr. John O'Grady: Legitimate small businesses that are currently functioning in compliance with the statute will finally enjoy the opportunity to compete on a level playing field, an opportunity they don't have now.

The Acting Chair (Mr. Joe Dickson): Thank you. To the third party, please.

Mr. Paul Miller: Thanks, Mr. O'Grady. I have two quick questions.

In your opinion, what accounts for the significant increase in independent operators in construction?

Mr. John O'Grady: The opportunity to evade costs associated with an employment relationship—the incentive to style a worker as an independent operator so as to avoid the cost of workers' compensation, Canada pension plan, EI, employer health tax, if it's applicable, as well as the Employment Standards Act obligations. There are enormous financial incentives to style a worker as an independent operator, and that is why that practice is rampant in the construction industry.

Mr. Paul Miller: Thank you. The second question: What is the relationship between covering independent operators in the construction industry and reining in the underground economy in construction?

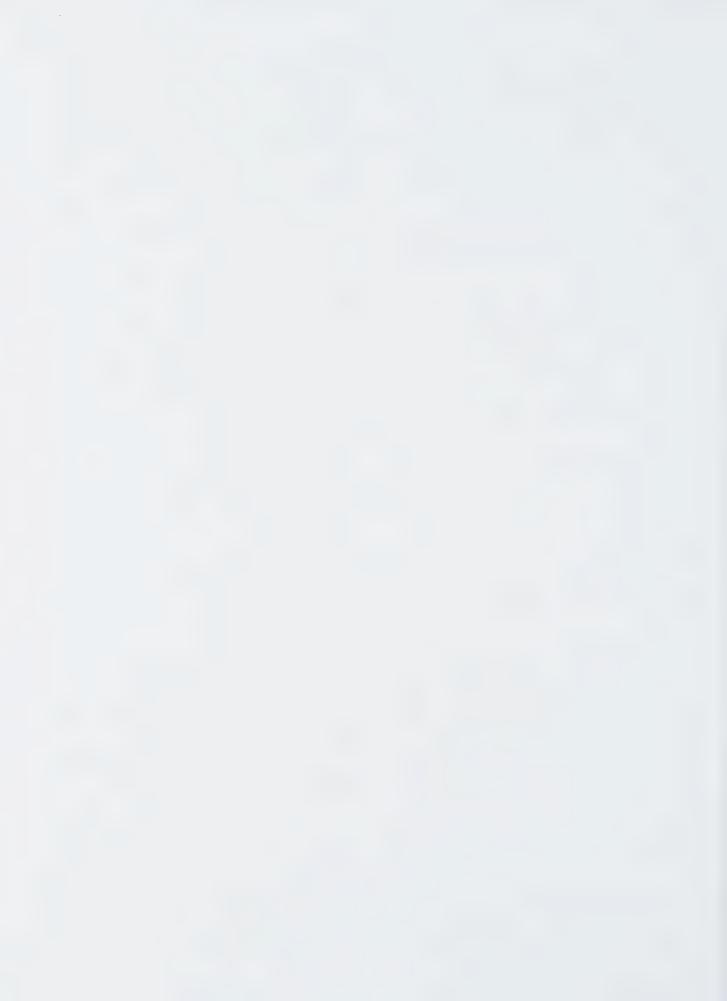
Mr. John O'Grady: The workers' compensation system is the gateway to better enforcement in the construction industry, first of all, through its records of employers; secondly, through its ability to audit; and then its ability to associate it with on-site inspections and its ability to link to Canada Revenue Agency records. The WSIB is Ontario's gateway to cleaning up the underground economy in the construction industry.

Mr. Paul Miller: Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much. Just before we leave, I would like to remind you that, if there are any written submissions, they may be submitted up until 5 o'clock tomorrow. Secondly, the hearings on Bill 119 will resume here tomorrow afternoon at 4 o'clock.

Finally, in Newfoundland time, I'd like to move for adjournment. Thank you very much.

The committee adjourned at 1801.







STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke–Lakeshore L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London-Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)

Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Robert Bailey (Sarnia-Lambton PC)

Mr. Jim Brownell (Stormont-Dundas-South Glengarry L)

Mr. Joe Dickson (Ajax-Pickering L)

Mr. Paul Miller (Hamilton East-Stoney Creek / Hamilton-Est-Stoney Creek ND)

Mr. Reza Moridi (Richmond Hill L)

Mr. Charles Sousa (Mississauga South / Mississauga-Sud L)

Also taking part / Autres participants et participantes

Mr. Tim Hudak (Niagara West-Glanbrook / Niagara-Ouest-Glanbrook PC)
Mr. Peter Shurman (Thornhill PC)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Mr. Avrum Fenson, research officer, Research and Information Services

CONTENTS

Monday 17 November 2008

Subcommittee report	SP-407
Workplace Safety and Insurance Amendment Act, 2008, Bill 119, Mr. Fonseca / Loi de 2008 modifiant la Loi sur la sécurité professionnelle et l'assurance contre	
les accidents du travail, projet de loi 119, M. Fonseca	SP-407
International Union of Painters and Allied Trades, Ontario Council	SP-407
Ontario Home Builders' Association	SP-410
Ontario Sheet Metal Workers' and Roofers' Conference	SP-414
Interior Systems Contractors Association of Ontario	SP-417
Canadian Federation of Independent Business	SP-421
Millwrights Regional Council of Ontario	SP-425
Council of Ontario Construction Associations. Mr. Ian Cunningham; Mr. David Zurawel	SP-428
Overhead Door	SP-431
Central Ontario Building Trades	SP-434
Ontario Construction Secretariat Mr. John O'Grady	SP-437

SP-17





SP-17

Government Publications

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Tuesday 18 November 2008

Standing Committee on Social Policy

Workplace Safety and Insurance Amendment Act, 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mardi 18 novembre 2008

Comité permanent de la politique sociale

Loi de 2008 modifiant la Loi sur la sécurité professionnelle et l'assurance contre les accidents du travail

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Tuesday 18 November 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Mardi 18 novembre 2008

The committee met at 1600 in committee room 1.

WORKPLACE SAFETY AND INSURANCE AMENDMENT ACT, 2008

LOI DE 2008 MODIFIANT LA LOI SUR LA SÉCURITÉ PROFESSIONNELLE ET L'ASSURANCE CONTRE LES ACCIDENTS DU TRAVAIL

Consideration of Bill 119, An Act to amend the Workplace Safety and Insurance Act, 1997 / Projet de loi 119, Loi modifiant la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail.

The Chair (Mr. Shafiq Qaadri): Colleagues, ladies and gentlemen, I'll call the meeting of the Standing Committee on Social Policy to order. I'll remind all concerned parties that we are time allocated and not permitted to exceed 6 p.m. today. We're here, as you know, to consider Bill 119, An Act to amend the Workplace Safety and Insurance Act.

MUSKOKA BUILDERS' ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I would, with respect, invite our first presenters to please come forward—Ms. Jennifer Maloney, executive officer of the Muskoka Builders' Association. If there are any colleagues, please introduce yourselves.

Just to remind everyone for these proceedings, as you know, you'll have 20 minutes in which to make your presentation. That's the total time. If there's any time within that to distribute amongst the parties evenly for questions or comments, that will be happening as well. We would like you to please identify yourselves for the purposes of Hansard. Please begin now.

Mr. David Nodwell: Right. My name is David Nodwell. I'm the president of the Muskoka Builders' Association.

Mr. Lawrence Cutting: My name is Lawrence Cutting. I'm the chairman for the committee that's looking at Bill 119.

Mr. David Nodwell: On behalf of the Muskoka Builders' Association, we would like to thank the Standing Committee on Social Policy for the opportunity to speak here today. My name is Dave Nodwell. I'm presi-

dent of the Muskoka Builders' Association, and a small builder in Muskoka. This is Lawrence Cutting, a small construction-related business owner and chair of our association's WSIB action committee.

Our association represents 100 small businesses in the construction industry in Muskoka, about 90% of whom will be affected by this bill. We are an independent construction association comprising almost exclusively of small businesses. Having spoken to many small business owners, both in our association and outside of it, we know that many small business people are simply unaware of this bill, as such, and will not have the opportunity to contribute to this discussion. Therefore, we would like to speak for them and for all small construction businesses in Ontario.

As a group, we are disappointed, not only with the content of the bill, but also in the manner in which it is being rushed through today. We are also deeply concerned about the lack of specifics contained in the bill. As a group, we share your concern with the underground economy. It is a problem we deal with daily in the Muskoka area. Having studied this bill, however, we just see nothing in it that will do anything to alleviate this problem. The exemption for home renovators in the proposed bill leaves them with a place to hide, and the additional costs the bill imposes on owners and independent operators will do nothing but create more of an incentive for them to go deeper underground.

We feel that the inclusion of mandatory coverage for independent operators is a good one, although it should be clear that this is not the underground economy. These operators are already known to the WSIB and are simply being brought into the system. We feel this is appropriate as independent operators, by the very nature of the designation, are hands-on workers on job sites and therefore WSIB coverage, oversight and training will likely be beneficial.

With regard to the business owners and executive officers, however, we are strongly opposed to this extension of mandatory WSIB coverage. First, as business owners, we must be covered against accidents 24/7, not just in the workplace. WSIB coverage will not be enough for business owners. They will still be required to carry additional private insurance over and above the WSIB coverage that they will now be forced to pay for.

We know that a lot of numbers have been thrown around about how much it will cost businesses, but here are some small business numbers. Should this bill pass,

my company could pay an additional \$14,000 per year and, for Lawrence's company, the cost could be upwards of \$30,000 per year.

Like many small businesses, we co-own our companies with our spouses or family members, who actively work in running our businesses. This is how small businesses run, and how many small businesses in Ontario operate. Under this bill, each of the owners will be required to pay premiums. Obviously, this cost is not incidental to any small business. It will inevitably result in increased prices for our goods and services, and lost business and, ultimately, lost jobs for our workers.

Further, business owners and executive officers are already in the system. They serve an important administrative role in the process and administer the system for WSIB. Their inclusion will do nothing in terms of training and oversight.

We question when, if ever, an owner would actually make a claim under the WSIB system. We are all well aware that the claims increase our premiums. Are owners likely to make a claim that will increase their own company's premiums? Are they to file papers as both the injured and the employer? And how would these claims be viewed by WSIB? We suspect that they will be greeted with extensive investigation, as the potential for fraud here is obvious. So even if the owner were to make a claim, which we don't feel they would, it would likely be many months or even years before they ever saw any compensation, due to the claim scrutiny they are likely to receive.

We strongly urge the committee to exempt from mandatory WSIB coverage those owners and executive officers of companies already paying WSIB for their employees. Their inclusion does not address the underground economy issue, as they are not underground. It does nothing to improve health and safety on Ontario's job sites, as they are already under oversight of the WSIB and benefit from their training, policies and programs. The only reason to include this group is to increase the revenue of the WSIB, and we strongly believe that government shouldn't be trying to balance their books on the backs of small businesses in Ontario.

Finally, we question the three-year implementation period of this bill. We are at a loss to understand why this time would not be used, prior to passing any bill, to work with construction industry stakeholders to really understand the problems and the best way to deal with the underground economy, and to ensure worker safety and coverage.

As small business people who pride ourselves in doing business the right way, we are endlessly frustrated with both the Ministry of Labour and the WSIB, who have failed to enforce the rules that now exist to tackle the underground economy. Countless times, we have told them who they are and where to find them, and yet they continue to operate with impunity because the rules are not enforced or the initiative is not taken. Another bill is not the answer, and this bill in particular is not the answer, particularly when it comes with huge costs to the very companies that are already playing by the rules.

In closing, we urge the standing committee to delay passage of this bill and recommend province-wide consultations on this bill now, so that small businesses throughout the province are given a voice. With such huge cost implications at stake for thousands of small businesses, we feel the minister owes this community at least the opportunity for consultation.

We would be happy to answer any questions you may have for us.

The Chair (Mr. Shafiq Qaadri): Thank you, gentlemen. You've left a very generous amount of time, probably about four minutes per side, beginning with the PC caucus, Mr. Bailey.

Mr. Robert Bailey: Thank you, Mr. Chairman. Yes, I'd like to ask one question right at the get-go. In your opinion—and we can keep the answers short and I'll try to keep my questions short so we can ask more questions—why do you think this bill, in your opinion, won't help un-root the underground economy?

Mr. Lawrence Cutting: Can I-

Mr. David Nodwell: Yes. I'll let Lawrence answer.

Mr. Lawrence Cutting: I'll speak to a couple of specific conversations. I have a company that employs, under the envelope of Cutting Bros., about 45 to 55 employees. In the last three years, I've had specific conversations with subtrades that come in and want to work for me. The first question I ask them is—well, first of all, "How much?" We go through the bidding process and whatnot.

Then, after I award the contract, I ask, "Are you registered under the WSIB act?" Surprisingly enough, I've probably had three subtrades in the last couple of years say, "No, I'm not."

"Well how do you pay your men?" "I pay them as independent operators." "Well, do you get a clearance certificate from them?" Because I understand very well what is expected of us as employers for WSIB. They said, "No." I said, "Well, you've got two choices: I either take 10% of the contract that I've just awarded you and retain it to pay the WSIB, or you register under the WSIB act now and then give me a clearance certificate."

1610

The benefit of that is that instead of paying—let's say the rate is 10% in his field, and the contract is \$100,000; I'm going to take \$10,000 and I'm going to retain it and pay WSIB that money, which is my right as an employer. What I did is, I encouraged them to register, because now they can deduct their expenses from that contract, and they just pay on the wages that they pay their employees. Those three underground subtrades all of a sudden became above ground.

If I was to tell them, "Well, you know what? All your profits and what you pay your employees is now subject to WSIB premiums," you take away a carrot. You take away any incentive for them to register.

That's a real story, and that's what happens at our level. You have three subtrades that were underground, and all of a sudden, they're above ground. This bill, in my opinion, in fact I can say with certainty, will further drive the underground even farther underground.

Mr. Robert Bailey: Thank you.

Ms. Laurie Scott: Thank you very much for appearing here today and coming down from Muskoka. I know that you're coming tomorrow for our opposition day, so we appreciate that also—

The Chair (Mr. Shafiq Qaadri): You have about 40 seconds, Ms. Scott.

Ms. Laurie Scott: Okay. You stated very well what we say is going to happen to small business. You also stated that it's going to drive more businesses underground. Were you ever contacted, or your association consulted, by the Ministry of Labour before this bill came out?

Mr. Lawrence Cutting: No. In fact, we've heard blurbs of it down the road, but we had no idea that it was coming this fast, and we didn't know, we still don't know really, what the—for a better term—jiff is about this—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Scott. The floor is now Mr. Miller's.

Mr. Paul Miller: I agree with you totally that this was not sent around the province like it should have been. There should have been more consultation, especially with small business owners. I agree totally with that.

Where I disagree with you is about your comment about safety. I'm a former tradesman: two trades. In your companies, do you have a safety program?

Mr. Lawrence Cutting: Yes, we do.

Mr. Paul Miller: And do you meet once a month?

Mr. Lawrence Cutting: Yes, we do.

Mr. Paul Miller: And what are your guidelines? Are you guided under the WSIB programs, or what programs do you follow?

Mr. Lawrence Cutting: Well, the labour board sends us a booklet. Now, I'm not in charge of this aspect, and if I knew there was going to be a question on this, I would have brought my representative for it. I have a full-time staff that takes care of my safety protocol and safety meetings. I do attend them. At the meetings, we're required, rightly so, to have both management and workers.

Mr. Paul Miller: Okay. And my next question is this. I believe the other gentleman made a comment about private insurance for your companies, and you felt that this was a bad bill. Would it be safe to say, with private insurance companies, if you guys made a lot of claims—sometimes people won't come forward with their injuries because they don't want their premiums to go up; that has happened. Under WSIB, that wouldn't be a problem. If your guys don't come forward, it's going to keep your premiums and your payments to an insurance company down, and if I'm not mistaken, a private insurance company could refuse to insure you if you had too many claims and injuries. Is that not correct?

Mr. Lawrence Cutting: Yes.

Mr. Paul Miller: Okay. My next question is—

Mr. Lawrence Cutting: Can I add to that?

Mr. Paul Miller: Okay, sure.

Mr. Lawrence Cutting: I'm just saying, people at management level don't get up on the ladders; my employees get up on the ladders. I don't wear fall arrests.

Mr. Paul Miller: Some small companies-

Mr. Lawrence Cutting: I'm talking about my particular company and that's what I'm speaking to today.

Mr. Paul Miller: You have 45 employees, but a smaller outfit, most likely the guy will get up on the ladder.

Mr. Lawrence Cutting: Yes. It depends.

Mr. Paul Miller: I'm just thinking that you're right about some of your things and I think I'm right about some of this. I don't think it's been talked out enough and I agree totally with you that—

Mr. Lawrence Cutting: That's our point.

Mr. Paul Miller: I would have preferred more input, but it has been rushed through and this is the animal we're dealing with, so we have to deal with it. I think that there are a lot of problems with it, but when it boils down to it, 90,000 workers being insured by WSIB is a lot better than it has been for years. I've seem some real horror stories with small companies where they go into Stelco or Dofasco or other major companies and they don't have proper insurance and guys are injured, maimed and killed, without proper insurance. I can't speak for your companies, but I've seen a lot of it.

Mr. Lawrence Cutting: That's a great point: proper insurance. That's the key.

Mr. Paul Miller: That's right. Okay. Thank you, guys.

The Chair (Mr. Shafiq Qaadri): Are you done, Mr. Miller?

Mr. Paul Miller: Yes.

The Chair (Mr. Shafiq Qaadri): Thank you. To the government side.

Mr. Vic Dhillon: Thank you very much for appearing before this committee. You've indicated that you ensure that all your subcontractors have WSIB coverage. With Bill 119, the WSIB would be issuing a certificate. This would be an enhancement of the requirement to have coverage. Don't you think these enhanced requirements would ensure a level playing field, that everyone plays by the rules?

Mr. Lawrence Cutting: We do pay WSIB and every subtrade or employee who's on my job sites is covered by WSIB, so I don't understand where we're cutting corners for our level playing field.

Mr. Vic Dhillon: But the question is, with this requirement to have this certificate so that the people who engage these contractors and subcontractors—to put the onus out there that it's your responsibility that you have a certificate valid with the WSIB, just making sure—

Mr. Lawrence Cutting: Are you talking about the individual cards that they're trying to implement?

Mr. Vic Dhillon: Well, it would be somewhat like a certificate, some sort of a card or document issued by the WSIB.

Mr. Lawrence Cutting: Right now, if an employer is doing his job right, he is making sure that everybody on

site is insured. I know that there are a lot of sites where they're not, and I understand that. But to force owners in my situation and in small businesses where owners and executive officers of companies that never show up on the job site, except maybe for inspections—to have them covered under WSIB is just a huge conflict of interest.

Now, that being said, I understand you might have a company—this does warrant a lot of talk—of one employer and one employee, that one employer obviously has to get up on a ladder and swing a hammer, as MPP Paul Miller had said. So therefore, what you're getting is your ratio of administrator and worker offset so one person's exempt, even though he's working on site. I understand that. That's why we don't think that the independent operators should be allowed to exempt themselves from WSIB coverage—independent operators only, though.

Mr. Vic Dhillon: That leads to my second question. We have had instances where independent operators and executive officers have been seriously injured on the job site with no coverage to fall back on. I know as a family member, if I was a construction executive officer and had to visit a site and was seriously injured, that would definitely devastate my circumstances financially and family-wise. In the case that someone is hurt, an independent operator or an executive officer—if they happen to go the one time and they're not equipped and they do get hurt, don't you think it's a good idea that they should have coverage to fall back on?

Mr. Lawrence Cutting: Absolutely. I completely, 100% agree with you, but they should retain the right to choose who insures them. If you want, make legislation that they have to be insured, but do not force them to be covered under the WSIB. The philosophy, for me—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon, and thank you, Mr. Nodwell and Mr. Cutting, for your representation on behalf of the Muskoka Builders' Association.

ONTARIO PIPE TRADES COUNCIL

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward: Mr. Alex Ahee, legal counsel of the Ontario Pipe Trades Council. Mr. Ahee, as you'll note, you'll have 20 minutes in which to make your combined presentation, and I would respectfully invite you to begin now and perhaps introduce yourselves as well.

Mr. Alex Ahee: Thank you, Chair, honourable members. I'm Alex Ahee of the Ontario Pipe Trades Council of the plumbers' and steamfitters' union of the United States and Canada, commonly known as the plumbers' union, but we go far beyond that. Our council is the bargaining agent for 16 local unions in the province of Ontario, and pursuant to the designation order received from the Ministry of Labour on April 12, 1978, we bargain on behalf of 16,000 members in every facet of the construction industry.

We all know why we're here today, so I will cut right to the chase. Bill 119 deals with two areas of interest to us, of course, one being construction work and the other being construction work in the renovation sector.

In the construction work section of the act, for many years the independent operator has been of concern to our council. Unscrupulous persons have used this as a loophole to label their employees as such, not only to avoid unionism, but to avoid paying WSIB premiums as well.

Bill 119 closes off one of those avenues used by them to gain a competitive advantage over fair contractors. In the past, as it is today, workers were being pressured by contractors to register themselves as employers, independent contractors or independent operators. They were not covered by any type of insurance unless they paid for optional insurance from WSIB or went to an outside source. In short, from where the council sits, the WSIB burden was carried by legitimate contractors who footed the bill, or the medical aid costs were shifted to the health care system without being handled by the WSIB, and, as well, with no incentives in place for accident prevention and health and safety in the workplace. I will deal with that later on.

This new legislation, the council believes, goes a long way to preventing unscrupulous employers from forcing employees to work on construction without insurance coverage or not work at all.

Under the new regime's regulations, employers in the construction industry must provide the WSIB with detailed information about their workers. The new regs require each and every worker in construction to have an approved identification card available for inspection when at work. Of course, we are in favour of that.

This government has recently caused the hiring of approximately 200 more enforcement officers under the Trades Qualification and Apprenticeship Act, the TOAA, and we commend you for that. Those officers police job sites and enforce regulations, and hopefully in future will include health and safety as one of their mandates. This is but one more test that those inspectors can use to check employers who have been taking advantage of the system, exploiting the youth of this province with no concern for their health and safety and, for that matter, no concern for their future. Young people working in the underground economy and suffering serious injuries become a burden and a cost on all of us. This legislation, we feel, is but one more step in the right direction. Unscrupulous contractors can no longer use this method to hide their employees behind a corporate veil, using it as a charade to avoid their WSIB premium obligations.

In light of the current economic situation about to descend on us, Bill 119 is indeed very timely. Therefore, the Ontario Pipe Trades Council supports and endorses the extended WSIB premium coverage for all independent contractors and corporate executive officers in construction.

Now, with respect to home renovations, the council feels that the exemption granted to the home renovation sector is too broad. This sector is driven by the subtrades,

especially the mechanical subtrades, of which we are a large part. We represent the plumbers and also the gas fitters. Major home renovations in the GTA area, for one example, almost always involve an upgrade of the plumbing, air conditioning and heating systems.

In the city of Toronto, we have two natural gas distribution companies, Enbridge and Direct Energy. These companies, for the most part, subcontract their renovation work on the west side of Yonge Street to Nekison Mechanical and Lakeside Mechanical—just two examples we're pulling out of our hat. On the east side of Yonge Street, the work usually goes to a company called Double 'G' Gas Services.

The large explosion four years ago on Burnhamthorpe Road west of Kipling was a Lakeside project. It is still under investigation and involved great loss of life, with many injuries and, no doubt, continuing litigation.

On the east side of Toronto, just last year, a Double 'G' Gas Services mechanic was working on the Moore Park home renovation. The enclosed newspaper article with photographs—it's in your package—shows the extent of the damage caused and the serious injuries caused to the gas fitter doing the renovation and indeed the homeowner.

That company, Double 'G' Gas Services—as late as last night, we did a survey through our organizers out in the field; we have a dozen people on the ground around the GTA. As of last night, Double 'G' Gas Services has at present over 100 men on the road, and they're all subcontractors or independent contractors, and are responsible for their own insurance.

At present, Nekison Mechanical has over 40 men on the road, and they are all subcontractors or independent operators.

Presently, these so-called "tradespeople" are under no obligation to show that they're self-insured. There is no requirement of them to show proof of status. Obviously, production of WSIB documentation in those cases would help screen these people.

The independent-contractor loophole, therefore, we believe, is alive and well in the home renovating sector. From our experience, these independent operators bounce around from company to company as much as four, five or six times a year and are very hard to police.

Yesterday, Mr. Ron Johnson, deputy director of the Ontario systems contractors association, said that the small legitimate contractors in the renovation sector are in favour of WSIB coverage so that they could have a level playing field with those contractors operating in and feeding the underground economy. We could not agree more.

The council feels that WSIB inspectors, if they were put on the renovation sites, would go a long way to reducing workplace injuries in the home renovation field and preventing needless litigation.

These are our submissions. If I can answer any questions, I'll try my best. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much. Again, a very generous amount of time left for

questions. We'll begin with Mr. Miller of the NDP—about four minutes a side.

Mr. Paul Miller: In reference to health and safety, is it your opinion that under your system—you obviously have training facilities and you guys are all certified plumbers and gas fitters. Do you run a program before the guys go out in the field, before they're exposed to potential disasters or areas where they could get themselves in trouble?

Mr. Alex Ahee: Oh yes, all the time, in our trade schools. Health and safety is a very large component.

Mr. Paul Miller: And do you have field representatives that actually go to the job sites? Do you have a steward or a safety guy who's in charge of safety on the job?

Mr. Alex Ahee: Usually the steward has a mandate for that project.

Mr. Paul Miller: So he's properly trained—level 1, level 2 safety and health?

Mr. Alex Ahee: Yes, sir.

Mr. Paul Miller: So that's a mandatory situation on certified job sites?

Mr. Alex Ahee: I think, on certified job sites, that is always the case.

Mr. Paul Miller: Okay. In your opinion, do you think that with the amount of work out there, that this situation would cause job losses for the small operator?

Mr. Alex Ahee: I don't think so. I think that, if anything, it would help level the playing field between those operators. If anything, they would have more opportunities in the workplace.

Mr. Paul Miller: Do you feel that your organization—do they feel that their dealings with the WSIB and the workers' coverage and benefits are sufficient? For example, you would probably be able to access the Safety Association of Ontario's Work Health and Safety Centres; you'd have exposure to that. You would have an extensive Health and Safety Network through the WSIB for your injured workers—would that be correct?

1630

Mr. Alex Ahee: Well, I've been involved as a member for over 40 years, and I've never heard any complaints.

Mr. Paul Miller: And do you feel that an independent operator, if they were insured by a small insurance company, may run into some difficulty with health coverage?

Mr. Alex Lolua: Part of the problem with the private insurance that a contractor gets is that if an injury occurs, there is not necessarily an accident investigation that would take place by MOL or the CSAO—the Construction Safety Association—because the claim would go directly to the private insurer. So, if it's a unique situation that may not have happened previously, that information may not through the Health and Safety Network in Ontario, thus leaving a greater chance that the accident could repeat itself. Part of the problem with the private safety network is that critical information doesn't get through the Health and Safety Network in the

construction industry because there is no obligation to report accidents.

Mr. Paul Miller: Also, would it be safe to say that the insurance adjudicator may not be trained in recognizing the pitfalls on a work site that some of the people through WSIB would?

Mr. Alex Lolua: Exactly. There's no need to report it, so it just stays between the independent operator that was injured and the private insurance company.

Mr. Paul Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): To the government side.

Sorry, gentleman, just before we go on, do you mind just introducing yourselves once again for Hansard?

Mr. Alex Lolua: Alex Lolua. I'm the director of government relations for the Provincial Building and Construction Trades Council of Ontario.

Mr. Vic Dhillon: Thank you very much for appearing before the committee. I think Mr. Lolua has made a very important point, where the WSIB should be mandated in the way that this bill intends, and has indicated a very key difference between private insurance and the WSIB, where a certain system is followed.

My question is, can you explain why it's important for the executive officers to be covered under the WSIB?

Mr. Alex Ahee: Well, from my experience and from the experience of our people in the field, on the ground, the only way to catch those cheaters—I hate to use that word, but that's the word that describes them best—is by throwing a full blanket net over the corporate structure. This is to prevent in the future, for example—and I know it's not a very difficult thing to do—adding more and more executive officers on your corporate documentation so as to avoid the WSIB premium program.

Unfortunately, some of the legitimate small contractors may well get caught in that net. But at the end of the day, I think we're looking for the greatest happiness for the greatest number, and it will work itself through in the system.

Mr. Vic Dhillon: Can you also tell us how long your organization has been involved in discussions around mandatory coverage? Do you think it's fair, that there have been enough discussions and debates on this issue?

Mr. Alex Ahee: I didn't hear the second part of your question, sir.

Mr. Vic Dhillon: Do you think that it's fair to say that there has been enough discussion and debate about this issue?

Mr. Alex Ahee: Well, we have been in many respects crying wolf about this for at least 15 years, and from where we sit, we're a bit saddened that the implementation is going to take so long. We wish it would happen sooner; indeed, the sooner the better.

The Chair (Mr. Shafiq Qaadri): Thanks very much, Mr. Dhillon. To the PC side.

Mr. Peter Shurman: Gentlemen, are you aware of how much money your organization donated to Working Families and the Liberal Party of Ontario?

Mr. Alex Lolua: I'm not sure of the amount, sir, but I don't think it's anything near what the corporate community gave to the Tory party from 1995 forward to devastate labour legislation, the apprenticeship act, and other things.

Mr. Peter Shurman: Let me refresh your memories: The Ontario Pipe Trades Council donated \$400,000 to Working Families in 2007 and also \$20,640.26 in direct donations to the Liberal Party of Ontario in 2007. My question is, was this bill promised in return for this very generous support?

Mr. Alex Lolua: It's a shame that a gentleman like yourself would try to make political hay on a very, very important issue.

Mr. Peter Shurman: I didn't ask you that. Please answer the question.

Mr. Alex Lolua: I'm sorry, I'm answering the question. It's an embarrassment to everybody here that you would try to make light of a very important issue that many, many construction industry partners have worked a long time on to help make our industry better, make it safer and level the playing field for all involved.

Mr. Peter Shurman: It's an embarrassment to your union that you would come here and you would describe non-apprenticed-through-the-union labour as being "so-called." That was what you just said. So you embarrass yourself when you come here and you do that, and you also embarrass yourself when you come here—

Mr. Alex Ahee: Just a minute. I must take exception to that, because in fact that's terminology used at the labour board, because they're uncertified tradesmen.

Mr. Peter Shurman: Nobody says that you have to fall in line. You came here to make the deputation.

The Chair (Mr. Shafiq Qaadri): I would just remind everyone that this is a committee before the Legislature of Ontario. Please proceed.

Mr. Peter Shurman: Then I'll ask a direct question and I'll expect a direct answer. You talk about "unscrupulous" contractors. You used that word. Are small construction businesses necessarily unscrupulous? That seems to be the conclusion.

Mr. Alex Ahee: I don't know them all, but the ones that I've dealt with, I find from time to time at the labour board, find any way they can to cut corners. Unfortunately, for workers—that's who I represent—health and safety is not a priority for many contractors.

Mr. Peter Shurman: We've had deputations in here from small business contractors who are paying all of the dues that are expected of them and eking out a living, basically. A fellow who was here yesterday and his wife work 60 hours a week and they make \$60,000 to \$80,000 out of their business, and this would put them under. So the suggestion that there is something unscrupulous and what you just said about a guy like that—I find that shameful.

Mr. Alex Ahee: I'm not talking about that particular contractor; I'm talking about those contractors who cut corners to avoid paying taxes, cut corners to avoid health

and safety. In fact, that good small contractor would welcome a level playing field.

Mr. Peter Shurman: Is there a problem with a small contractor, in your estimation, insuring everybody in the company in an appropriate way on his own without the WSIB, or are you here saying that only the WSIB can do this?

Mr. Alex Lolua: We talked about the pitfalls of that earlier. The problem with a private insurance company in the construction workplace is that if an accident happens, it doesn't get reported to the Health and Safety Network, thereby leaving out important statistics on how people get injured.

Mr. Peter Shurman: There's another side to that equation, though. The other side to the equation is it doesn't cover 24/7 the people who work for the construction company, whereas some of the insurance plans that have been related to me by people who are in small business and doing it properly are 24/7, they include a health component—they're good plans. What's wrong with having a certificate or a named insurer, if you will, other than WSIB, which, by the way, has been described by many people as the only monopolistic insurance company that doesn't make a profit?

Mr. Alex Lolua: We would have no problem with mandatory coverage for everybody who works in the industry. That is what this bill is about. It's to ensure that everybody who works in the industry is—

The Chair (Mr. Shafiq Qaadri): Thank you for your presentation on behalf of the Ontario Pipe Trades Council. I would now bring that spirited exchange to a close.

PROVINCIAL BUILDING AND CONSTRUCTION TRADES COUNCIL OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenters, Mr. Nicholls and Alex Lolua of the Provincial Building and Construction Trades Council of Ontario.

I do have before me, by the way, a very extensive list of parliamentary decorum which I'm happy to inflict on the committee if necessary, but once again I just remind them to observe parliamentary procedure and decorum.

Gentlemen, I invite you to begin now.

Mr. Bill Nicholls: Good afternoon. My name is Bill Nicholls. I'm president of the Provincial Building and Construction Trades Council of Ontario. With me this afternoon is Alex Lolua, who is the government relations director. I want to take this opportunity to thank you for giving us this chance to bring forward our position on Bill 119.

The Provincial Building and Construction Trades Council of Ontario is the umbrella organization that represents construction workers in all aspects of the industry in this province.

The Workplace Safety and Insurance Amendment Act introduces changes as to who must now be covered by

Workplace Safety and Insurance Board premiums. Bill 119 proposes that both independent operators and executive officers of construction firms will no longer be allowed exemptions from premiums and that the only exemption will be for a class of workers in the home renovation field.

1640

For more than 15 years, this council, along with several other construction industry groups, has been making representation to governments of all political stripes to address the independent operator exemption from paying Workplace Safety and Insurance Board premiums. The most recent written submission from the Ontario building trades was in June 2006 to then-labour minister Steve Peters. A copy of that submission is enclosed with the submission we've given to you today.

The tabling of Bill 119 is the result of wide industry consensus on the principle of mandatory WSIB coverage for the construction industry. As stated, the independent operator has been an issue of concern for quite some time in the construction industry. The Ontario Construction Secretariat has commissioned several reports dealing with the underground economy in the construction industry. In its most recent report on the underground economy, the OCS noted that almost one third—32.7% of construction workers in 2006 reported that they were self-employed, whereas the economy as a whole reported less than 15% as self-employed. The number of selfemployed construction workers in 1987 was reported by Statistics Canada as only 10.8%. Over the 20-year period there was a 200% growth in the number of independent operators in the construction industry.

This significant difference in the proportion of selfemployed workers between construction and the economy at large and the explosive growth of the number of independent operators is indicative of a restructuring of the construction industry for many to capitalize on this classification in order to gain a competitive advantage on others in the same industry.

The Building and Construction Trades Council of Ontario strongly agrees with the conclusion of the OCS "that the practice of styling workers as independent operators was supported and encouraged by the decision to continue the statutory exemption of independent operators from WSIB coverage at a time when the WSIB increased its premiums to cover unfunded liabilities." In essence, the nature of the work relationship was structured to take advantage of significant cost savings despite the fact that the nature of the relationship was in name only.

Allowing some to take advantage of this restructured relationship is unfair to legitimate contractors who accept their legal obligations and support the WSIB system. Bill 119 is a positive step in levelling the playing field so that all who compete for work do so on more equal terms.

Beyond the issue of the restructuring of the work relationship, some unscrupulous contractors have forced workers to accept being declared independent operators in order to gain employment in the construction industry.

This is being done for no reason other than to allow a contractor to avoid their statutory obligation to forward WSIB premiums on behalf of a worker and to pocket the savings for themselves. This violates the basic premise of the workers' compensation system and leaves workers with the choice of working without coverage or not having a job. No worker should be put in such a position.

In 2004, a committee that came to be known as JAIG—Joint Advisory Implementation Group—and consisted of various participants from labour and management across the construction industry came to a consensus position that the independent operator exemption should be eliminated. A copy of the JAIG report is included in this submission.

The proposed legislation could also be an important step in improving safety within the construction industry, therefore assisting the Workplace Safety and Insurance Board in its Road to Zero mandate. The goal of Road to Zero is to achieve no lost-time injury and no traumatic incidents in the workplace. By requiring all independent operators to register with the WSIB for coverage, this will put all independent contractors in contact with the board and by extension with the Construction Safety Association of Ontario. This will allow for more safety training of individuals who work in the construction industry, which should result in fewer lost-time injury claims and preventable occurrences.

For the above-noted reasons, the Ontario building trades council strongly supports the undertaking of Bill 119 to eliminate the independent operator exemption from paying WSIB premiums in the construction industry.

Bill 119 also proposes to include all executive officers who work in the construction industry in the WSIB regime. The council believes this is a prudent course of action on two accounts.

First, based on the previous discussion on independent operators, the council believes that any exemption for executive officers would undoubtedly result in an explosive growth in this class of worker. As many have used the independent operator exemption to avoid paying WSIB premiums, many would find ways to incorporate an executive officer exemption into their arrangement of work practices.

Secondly, if one truly believes in the concept of full coverage, then it is a logical conclusion that no one should be given an exemption, including this class of worker. Thus, full coverage is an issue of fairness and consistency of application. As a result, the council is in full support of WSIB coverage for all executive officers who work in the construction industry.

One of the critical matters contained in Bill 119 is the home renovator. The council has grave concerns that this exemption, if not severely restricted or, better yet, removed from the legislation, could become the new independent operator problem. Our concerns are two-fold:

(1) As was clearly demonstrated in the case of the independent operator, certain factions within the construction industry will find a way to use the home renovator exemption for unintended purposes. Unscrupulous contractors will try to devise some way to gain a competitive advantage by misusing the exemption, leaving the industry with the same problem it has now but with a different name.

(2) The proposed legislation leaves the homeowner susceptible to legal liability in the event that the home renovator injures himself or herself while performing their work. It is our belief that the current subsection 26(2) of the act could allow this scenario to occur. It seems incongruent with the premise of workers' compensation that legislation could allow such an event to occur.

For these reasons, the council recommends that the legislation remove all exemptions from WSIB coverage. Failing that, the council recommends that the definition of home renovator be more restrictive to ensure that it is not abused.

The founding principle of our workers' compensation system is that workers give up the right to sue employers for work-related injuries and deaths in return for a no-fault system of benefits. As a result, this legislation must clarify who has the responsibility to pay the WSIB premiums. If this responsibility is not clearly laid out, many workers will find themselves in a position where they are forced to pay their own premiums in order to get work in the construction industry. We would suggest that the person or entity engaging a worker should be responsible for paying any and all WSIB premiums.

Legislation can only be effective if there is a corresponding will of government to enforce laws it has passed. The current abuses we find today in the construction industry are the result of poorly crafted legislation and a seeming unwillingness to enforce the laws that are on the books.

Recent history in the greater Ottawa area has demonstrated the positive impacts government can achieve in addressing the underground economy. Through the efforts of the jobs protection office, both the federal and provincial governments have found significant amounts of revenue leakage by seeking out those who do not play by the rules. The Ministry of Labour and the Workplace Safety and Insurance Board have important roles to play to ensure that workplaces are safe and that all contractors and workers compete on a level playing field for contracts.

This council commits to work with government and our industry partners to ensure that we achieve these goals. Thank you very much for your time.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Nicholls. We have a couple of minutes or so per side, beginning with the government. Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation this afternoon. Some advocates believe that we should be pursuing named insured instead of the mandatory coverage. Can you comment on this suggestion?

Mr. Alex Lolua: We don't care what it's called; we just want to make sure that everybody that works in the construction industry is covered. Sometimes, what you will find is—and where the named-insured concept came

from—even sometimes with people who are registered with the WSIB, they may have 20 employees in their employ at a certain time, but only pay premiums for 10. Part of the debate or discussion that occurred even with JAIG was to ensure that we come up with a system whereby everybody's covered and everybody becomes legitimate and pays their fair share. We don't care what it's called; we just want to make sure that everybody who works in the industry is covered.

1650

Mr. Vic Dhillon: How long has your organization been contemplating mandatory coverage, and do you feel that enough debate and discussion has gone on about mandatory coverage?

Mr. Bill Nicholls: I personally feel it's been going on for at least 15 years, if not longer. This has been an issue that's been out there for numerous, numerous years, especially in the finishing trades. Is there ever a bad time to put through legislation like this? To me, it makes sense. It's positive, it makes a level playing field, and it's the right thing to do.

Mr. Alex Lolua: I think if you look in the back of our submission, in the JAIG report, it has a list of all the significant players in the construction industry that have discussed this issue. I started with the council in 1993 and it was one of the first issues that I ever worked on.

Mr. Vic Dhillon: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. Mr. Bailey.

Mr. Robert Bailey: Thank you, Mr. Nicholls and Mr. Lolua, for coming in today. I had a question. You talked about mandatory coverage. If we had a choice in that independent operators, chief executive officers etc., were given the opportunity to have comprehensive but equal coverage to the WSIB to meet their needs, this 24/7 coverage for off-hours, would you be supportive of something like that? Like I say, something that's at least as good as, or better than, the WSIB: Would you be willing to support something like that?

Mr. Alex Lolua: The problem gets back to the reporting mechanism, right? If everybody is registered with the WSIB, the WSIB has a way to communicate with everybody in the industry. Again, it gets back to tracking injuries. If something happens that's a first-time occurrence or if a pattern develops with a certain class of employers—because normally we're talking about small employers, but not necessarily. It can happen that the independent-operator rule is also abused in larger jobs. But if a pattern develops in a smaller contractor, those things don't get reported to the Health and Safety Network if you're dealing directly with your private insurer, and that's one of the major pitfalls with that type of regime

Mr. Robert Bailey: Okay.

The Chair (Mr. Shafiq Qaadri): Ms. Scott.

Ms. Laurie Scott: Thank you very much. My question is, the president of the Provincial Building and Construction Trades Council, Pat Dillon—

Mr. Alex Lolua: Business manager; wrong title.

Ms. Laurie Scott: What is it?

Mr. Alex Lolua: Business manager. Mr. Nicholls is our president.

Ms. Laurie Scott: So was Pat Dillon the head of the Working Families Coalition?

Mr. Alex Lolua: You'd have to ask Mr. Dillon. He's not here. I know he took part in it, but I don't think he would be classified as the head of Working Families. I don't see what that has to do with the issue at hand.

Ms. Laurie Scott: It's similar to some of the questions we had before. This is an all-party committee, and we have information from Elections Ontario. We certainly know that the provincial building trades council made a donation of over \$26,000 to the Liberal Party of Canada in the run-up to the last election: a connection with the Working Families Coalition. Would you say that this bill is not the work or the demand of the Working Families Coalition?

Mr. Alex Lolua: I think if you look in the back of your document that we handed to you, if you look at the JAIG report—

Ms. Laurie Scott: Just yes or no.

Mr. Alex Lolua: Excuse me. I see a lot more names there than the Ontario building trades council.

Ms. Laurie Scott: I'm just asking for them.

Mr. Alex Lolua: So I would say that this issue, in principle, has very broad support within the construction industry.

Ms. Laurie Scott: I'm just asking for your association.

Mr. Alex Lolua: Certainly, I would think that the government is reacting to broad industry support on the principle of mandatory coverage for everybody that works in the construction industry.

Ms. Laurie Scott: Okay. I asked you because you're representing the Provincial Building and Construction Trades Council of Ontario. So was the answer yes or no? Was that the big demand of your association? Is this bill a result of that?

Mr. Bill Nicholls: I can answer that. It was not a big demand of our association.

The Chair (Mr. Shafiq Qaadri): I'll have to intervene, Ms. Scott. To Mr. Miller, please.

Mr. Paul Miller: Thank you very much. Thanks, gentlemen.

A couple of quick questions—actually, I have a statement here. The information that's coming to me says: "The current practice shows that unscrupulous contractors, to the detriment of the entire industry, will exploit any exemption in order to preserve the integrity of the system and to avoid any abuse. All who work in the construction industry must be covered equally." Would you concur with this statement?

Mr. Bill Nicholls: Yes, I would concur with that.

Mr. Alex Lolua: Absolutely.

Mr. Paul Miller: Okay. My next question: The two biggest arguments we're getting—and I'm having difficulty with it; I don't quite agree with it—are that this legislation is an attack on small businesses for the benefit

of big businesses and unions. How do you feel about that?

Mr. Alex Lolua: Health and safety is everybody's business. There's no reason why any person should leave their home in the morning, go to work, and not come back to their wife and kids. We think that health and safety is a big component of it; we think that equity and levelling the playing field is a big component. I can't see how you can make an argument that someone has been avoiding their due obligation for years and years and now that we're going to take an opportunity to change something that we think is unfair—to say that that's a burden—

Mr. Paul Miller: Would it be safe to say that in your 15 years of pursuing this, this statement could have been said every time and it doesn't hold any weight. Would that be a fair statement?

Mr. Alex Lolua: Absolutely.

Mr. Paul Miller: The last statement that some detractors are using is that it's just a cash grab by the

government. How do you respond to that?

Mr. Alex Lolua: I would look anybody in the eye and say that any time you can do something to make workplaces safer, you're taking a step forward. I would say, as someone who believes in free enterprise, that the more you can do to level the playing field so everybody can share equally in the prize is a good step. So I think on those accounts this is a great piece of legislation. It's not perfect. Certainly, we have some concerns. We don't want the home renovator exemption to become the new independent operator exemption. But to finally get close to something that a broad spectrum of our industry has been asking for for years—I think it speaks well. It's very encouraging having your party support the government on this, because I know how difficult it can be to support the opposite side.

Mr. Paul Miller: Thank you for making that statement. I'm waiting for them to support me on one of them.

It would be nice.

Mr. Alex Lolua: It's something that needs to be recognized. Normally, in government you don't see a lot of co-operative efforts—I watch TVO quite a bit—but it's important. I'd like to congratulate Mr. Miller for seeing the importance of the principle and saying, "Yes, we're prepared to support"—

Mr. Paul Miller: Thank you, gentlemen.

The Chair (Mr. Shafiq Qaadri): Thank you for your deputation on behalf of the Provincial Building and Construction Trades Council of Ontario.

MECHANICAL CONTRACTORS ASSOCIATION OF ONTARIO

The Chair (Mr. Shafiq Qaadri): We'll now proceed directly to our next presenters, Mr. Coleman, Mr. Capotosto and Mr. Liversidge of the Mechanical Contractors Association of Ontario. I would invite you to begin now.

Mr. Les Liversidge: My name is Les Liversidge. I'm here today representing the Mechanical Contractors

Association of Ontario. Joining me on my right is Mr. Don Capotosto, president of Gimco Ltd., a member of the board of directors of the MCAO; along with, on my left, Mr. Steve Coleman, MCAO's executive vice-president.

The MCAO is a major provincial construction employer association that represents some 360 member firms involved in the industrial, commercial and institutional sector of Ontario's construction industry, that in turn directly employs approximately 12,000 construction tradespersons across the province. MCAO members submit Workplace Safety Insurance Board premiums under two rate groups in excess of \$35 million per year. The MCAO is a long-time member of the Council of Ontario Construction Associations, which appeared before this committee yesterday, and the MCAO generally supports and adopts the COCA presentation.

For the reasons set out in the COCA presentation, the idea of universal mandatory insurance coverage for the construction sector for at-risk individuals is an appropriate social and policy objective. While a review of the WSIB monopoly for on-the-job insurance protection is arguably worthy of a debate, the MCAO supports the principle of mandatory universal insurance coverage and, for the moment, accepts that the Ontario WSIB is the best vehicle through which to deliver that objective. The broader debate, though, would be welcomed at a future point.

That said, the MCAO does not support the inclusion of executive officers not exposed to construction work site risks. Such an inclusion does little to promote the touted policy expectations of Bill 119: to promote coverage for at-risk construction workers and to fight the underground economy. Legitimate executive officers are neither at risk nor are they part of the underground economy.

Sole proprietorships, partnerships and incorporation are legitimate and legal means of business organization. Legitimate independent operators are unique in that they may organize as a sole proprietorship or a corporation. Of course, once a worker is hired, the enterprise becomes an employer.

1700

Bill 119 is sensitive to several similar but distinct policy concerns.

- (1) Some individuals who are workers, in fact and law, masquerade as independent operators until injured on the job. This represents the quintessential revenue leakage problem.
- (2) Legitimate independent operators who have not opted for voluntary WSIB coverage are exposed daily to construction site risks and are either not insured or are underinsured.
- (3) Similarly, owners—a sole proprietor, a partner or a legitimate executive officer—of small construction firms properly registered and in good standing with the WSIB are exposed daily to construction site risks and are either not insured or are underinsured.
- (4) A significant minority of companies engaged in the Ontario construction industry run underground. They hire

workers, but neither register with the WSIB nor pay premiums.

That seems to capture what Bill 119 is at least trying to deliver on.

While the MCAO supports the principle of full coverage for those exposed to construction work-site risks and lauds the efforts of the government to tackle the underground economy, there is no policy reason to extend mandatory coverage to executive officers not exposed to construction work-site hazards.

For our 360 members, this provision will increase our overall premiums by as much as 10% to 11%, with no corresponding increase in our insurance risk. Worse, the impact will be disproportionate, weighing more heavily on the small and medium-sized enterprises.

Consider these two simple illustrations. First, a very large constructor, with a \$25-million payroll and four executive officers: That company will pay approximately \$1.6 million in premiums to the WSIB and will see their premiums increase by \$18,500 as a result of Bill 119. The mandatory executive officer coverage will increase the aggregate premium of that large enterprise by approximately 1%. Contrast that with a smaller corporation with a \$1-million payroll and 18 employees, paying \$67,000 in WSIB premiums. If that company had two executive officers, which is likely, that would increase the aggregate premium of that company by \$9,294, which would increase the overall Workplace Safety and Insurance Board premium by 14%, even though the WSIB insurance risk remains essentially the same.

A preferred solution for executive officers not exposed to construction risk is to leave the coverage optional. However, as introduced and suggested by COCA yesterday, if the government is steadfast in its resolve to compel mandatory coverage for all executive officers, at risk or not, then we urge that these individuals be assigned a premium that is commensurate with the risk they represent.

I want to turn to the issue of addressing the underground economy.

As was also expressed by COCA, the MCAO supports Bill 119's reliance on a new system to verify insurance coverage, even though the mechanics of that new system are not spelled out and supporters are asked to take this somewhat on faith. Without such a mechanism, the inclusion of independent operators and others as "deemed workers" will do little or nothing to solve the systemic problem of the underground economy.

The complexities associated with this proposal—and this proposal is the verification system—are understood. While a verification mechanism is easily implemented with respect to independent operators and at-risk owner coverage, since they are directly responsible for paying their premiums and could easily be directly responsible for presenting proof of those premiums paid, it is not so easily developed for normal construction workers.

Through COCA, the MCAO commits to work with the WSIB and the rest of the industry to develop a workable system. However, without a workable verification mech-

anism, the WSIB will be ill-equipped to tackle the underground economy, and this essential objective will be thwarted.

I want to talk about a component which has been touched on by a few other presentations, as I heard them today. I'll call them the "moral hazard" considerations that this new bill brings forth.

Wage replacement insurance coverage for self-employed individuals has been the subject of extensive discussion at the federal level, with respect to inclusion in the employment insurance regime. A general reticence has emerged because of the difficulties associated with containing the "moral hazard" of self-employed individuals. Such a problem will now present itself in the Ontario workplace safety and insurance scheme. It will be difficult to distinguish between long-term unemployment due to disability through on-the-job injury and long-term unemployment through loss of business opportunity.

If, as the government projects, Bill 119 will result in 90,000 new workers being insured by the WSIB, it can be expected that this will also result in 1,800 new lost-time-injury claims being accepted by the board if only average trends present themselves, with a new annual benefit cost of \$122 million each and every year. The moral hazard implications are stark and must be managed. As part of the Bill 119 implementation process, the WSIB must develop a viable strategy to manage the insurance moral hazard for self-employed persons.

There's another problem, and this has been introduced as well. This is the question of double insurance. Workplace safety and insurance coverage is limited in scope. It is limited to injuries which occur in the course of employment. Self-employed individuals require a broader scope of insurance coverage and normally acquire and require 24/7 accident and disability insurance. Independent operators and owners will still require 24/7 insurance coverage, plus now WSIB coverage, yet lack sufficient bargaining power to negotiate lower 24/7 premiums, even though the private insurance claims usage will decline significantly. As an adjunct to Bill 119, the Ontario government should spearhead an immediate dialogue with the Ontario insurance sector to request a premium offset in these circumstances and present those assurances and guarantees to the industry.

In closing, with the qualifications and suggestions set out today, the MCAO supports the government's decision to introduce mandatory workplace safety and insurance coverage for the construction industry. Through COCA, the MCAO will continue to work with the government and the board to advance our mutual interests.

I think there's time for a few questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Liversidge. We'll have some time for questions. We have a couple of minutes per side. Mr. Bailey.

Mr. Robert Bailey: Yes, thank you, Mr. Liversidge, Mr. Coleman and Mr. Capotosto, for coming today.

I had a question. Mr. Liversidge, you touched on the people with dual insurance. People have spoken to me

about this and said that some of them are locked in to 20-year insurance plans, that they'll either have to take a big penalty or keep paying that or have both insurances. I like your idea there that the government and us, if this does pass, either have an amendment or something so that there's some form—maybe the other two gentlemen here would like to speak to that. Because some people would be in that position, right?

Mr. Les Liversidge: Yes, I'd like to touch on that. You open the door to several points and several questions.

The first one is the issue of double insurance. It's wasteful. It's not a sound use of resources to double insure the same risk. It makes no sense. But it would seem to me that it would be incumbent upon the government—being the cause of the now double insurance issue, and since insurance is a provincially regulated function, they are in a better position to spearhead a strong dialogue with the insurance industry to ensure that a fairer premium mechanism exists for those who do find themselves locked into that issue. So that's something that they can do outside the workers' comp issue.

But there's a second consideration that I think is worthy of exploration as well. That's whether or not the insurance for independent operators and at-risk/exposed owners and executive officers-remember that we oppose the inclusion of coverage for those who are not at-risk/exposed-whether or not those individual, in actuality, have the same insurance risk as normal construction workers. Intuitively, you would think otherwise. Intuitively, you would think that independent operators, even at-risk owners and executive officers, would more likely than not have a lower overall risk. At 90,000—and that's just independent operators; if you include the atrisk executive officers, you're probably well over 100,000, maybe a 120,000 pool of risk—that's enough to float its own separate and distinct risk pool and it should attract its own premium based upon its actual demonstrated risk. The WSIB at this very point in time, based upon its exposure and its ability to accumulate its own data, should be able to determine right now whether or not independent operators—

1710

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Bailey. Mr. Miller.

Mr. Les Liversidge: —and at risk—

The Chair (Mr. Shafiq Qaadri): Thanks.

Mr. Les Liversidge: —have the same overall insurance risk.

Mr. Paul Miller: I think you just got cut off.

Mr. Les Liversidge: I kept talking. Mr. Paul Miller: Yeah, I saw that.

Mr. Les Liversidge: My red light stayed on.

Mr. Paul Miller: Yes, that's right. My light's on now. Anyway, I listened to your presentation and I have some problems with some of it. I agree with you on probably 80%. You mentioned the superintendents and owners, and my fear is, how many are going to be considered superintendents and owners, or executive offi-

cers, if you've got 10 workers in a company and seven of them are considered executive officers and you've got three guys on a work site?

And I'm a little confused with the 24/7 insurance. I was a tradesman. When I was on a job site, I was covered by WSIB. When I leave that job site, I'm on my own. So I don't know about 24/7 insurance; I don't quite understand that angle.

The other thing was, I agree with you that we need more dialogue and I agree that, at committee level, we have to talk out more of these things. But I don't agree with you on the 24/7 insurance; I think that's a myth. I mean, nobody's covered; if I leave a steel plant and I go home, I'm not covered for insurance. I'm confused by that.

Mr. Les Liversidge: Mr. Don Capotosto can address that point. But let me address your first point first. As I understand, your first point was some worry that executive officers may not be executive officers.

Mr. Paul Miller: No, no. My worry was, how many of them will there be in a company and how many of them will be exempt and not covered? Any job site I've been on or I've ever been involved in, a lot of so-called operators or executives come to the job site wearing the white hats, tour the job site. They could be injured too. They're called superintendents. So I'm confused—

Mr. Les Liversidge: Right. That's a good point. Union officials tend to come to job sites too.

Mr. Paul Miller: They do.

Mr. Les Liversidge: Union officials aren't even subject to mandatory coverage—

Mr. Paul Miller: But they're covered under WSIB.
Mr. Les Liversidge: Union officials aren't subject to mandatory coverage under—

Mr. Paul Miller: It's in their union dues.

Mr. Les Liversidge: —workplace safety insurance. If they opt in, they pay 60 cents per \$100 of payroll, about 10% of the risk. The precedent has already been set to establish what that risk pool is, and I would suggest it probably isn't any more than 60 cents. If you are worried, if the policy objective of coverage is so powerful that it will include the partially at-risk executive officers, if I could do that, or the sometimes at-risk executive officers, or the executive officer who may once in a while be on the job site, you want to make sure that person still gets the full protection of the Ontario Workplace Safety Insurance Act, then it makes complete and total sense to ensure that that premium is a fair premium—

Mr. Paul Miller: It would have to be a percentage.

Mr. Les Liversidge: —and one that respects the degree of actual risk. I think there's several different ways to address the same problem—

The Chair (Mr. Shafiq Qaadri): I have to intervene here. Thank you Mr. Miller. Mr. Dhillon.

Mr. Paul Miller: I'd like to discuss this further with you—

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Paul Miller: I'd like that 24/7 insurance. That's something else.

Mr. Vic Dhillon: Thank you, Chair.

Thank you very much for your presentation and appearing before the committee. You indicated that there should be a creation of a new verification system. Can you just explain how this would be different from the commonly termed "named insurance" system?

Mr. Les Liversidge: Well, it may be the same thing as the named-insurance system. The named-insurance system and the verification system, what Bill 119 has in mind, have never really been defined. We really don't know what the board has in mind. We don't know what is doable or not doable. I do know that until you have a workable mechanism, you will not be able to address the underground economy because you still will not know who's insured.

The issue of independent operators is not the issue, as one of the presenters said here earlier on, which defines the underground economy. The issue of the underground economy is caused by people who avoid paying taxes. People who don't pay taxes go underground; they're not paying workers' comp taxes, they're not paying GST, they probably aren't paying personal income tax etc. They are in the cash economy. That problem exists right now, with or without independent operators. Independent operators are not the proxy for the underground economy; they are two separate and distinct problems.

The independent operator issue can be subdivided into two issues: one is legitimate independent operators, and you want to use the paternalism in the Ontario workplace safety insurance regime to blanket-cover those individuals. Workers' compensation legislation has a general paternalistic social and policy objective, which I guess is generally acceptable. You also want to ensure that people who are in reality-in fact, in law, as I said in my submission-workers are not treated as if they are independent operators. That is not necessarily the same as the underground economy. This is one big worry, that there's going to be a sense that with the passage of Bill 119 we've fixed the underground economy issue. Not so. With the passage of Bill 119 you have, I hope, spotlighted the importance of fixing the underground economy issue. It will then be time to roll up one's sleeves and figure out how you're going to put in the mechanisms to address that. Clearance certificates and things like that aren't enough; they don't do it.

Mr. Vic Dhillon: What's your recommendation on how the WSIB should deliberate—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. I'll have to intervene there. Thank you, gentlemen, for your deputation on behalf of the Mechanical Contractors Association of Ontario.

LABOURERS' INTERNATIONAL UNION OF NORTH AMERICA, ONTARIO PROVINCIAL DISTRICT COUNCIL

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters, Messieurs Little and Raso of the Labour-

ers' International Union of North America, Ontario Provincial District Council. Welcome gentlemen. As you've seen, 20 minutes, door to door, start to finish. Begin now.

Mr. Jerry Raso: Copies of our brief-

The Chair (Mr. Shafiq Qaadri): —will be distributed. Thanks.

Mr. Jerry Raso: The Labourers' International Union of North America, Ontario Provincial District Council is very, very pleased to be presenting today in strong support of Bill 119.

The Chair (Mr. Shafiq Qaadri): Just introduce yourselves, please.

Mr. Jerry Raso: My name is Jerry Raso, legal counsel, and to my right is Mr. Patrick Little, business manager of the district council.

The council represents thousands and thousands of workers in the construction industry, as well as workers in other industries. As such, we take health and safety and workers' compensation very, very seriously. We do everything we can to support and to help our workers go to work in the morning and go home at night safely. For this reason, we strongly support Bill 119.

In our opinion, Bill 119 will achieve many, many goals. It won't get there, and we'll get to some suggested amendments, but what Bill 119 will bring us a lot closer to is providing construction workers with the right to WSIB benefits and services. And—you've heard this from COCA and from the Mechanical Contractors Association—it will help level the playing field between employers in the construction industry; it will help to eliminate what the WSIB calls revenue leakage; it will promote occupational health and safety in the construction industry; and it will help to ensure the sustainability of the workers' compensation system in Ontario.

One thing we have to stress right off the bat is this is not a bill that is pushed strictly by trade unions and workers' organizations. The issue of independent operators has been an issue for many, many years in Ontario. It goes back, to my own personal knowledge, to at least 1999. That year the WSIB created a new funding policy. In it, the construction sector received a \$1.2-billion subsidization to address its large unfunded liability. Conditional to this grant was a commitment by the construction industry that future losses wouldn't be subsidized by other industries. Therefore, the construction industry and the WSIB started working, at least since 1999, to address the funding problem.

They created a construction sector strategic plan initiative in 2000. I can speak with personal knowledge because I was active in that, actively participated in it. Management and labour came together and worked diligently for two years discussing the problems. Some of the issues it identified as a group were the problems of revenue leakage, lack of funding, lack of coverage for workers because of this concept of independent operators.

You've heard about this group called JAIG, the joint advisory implementation group. That was formed in 2003. I was personally involved in it; I was the working

group leader for the independent operator committee of JAIG. We met for a year and a half, management and labour. COCA was a member. The Mechanical Contractors Association of Ontario was involved. ResCon, the residential contractors, was involved. The residential framing association was involved, and other groups. We met and together we came to a unanimous conclusion that there should be mandatory coverage in the construction industry, and independent operators should have to be covered in construction.

1720

You'll see at page 3 of our brief that the guiding principle of the JAIG was, "All construction employers, workers and independent operators fully participate in the workplace safety and insurance system." That was the principle that the JAIG adopted. We came together to work together and agreed that we needed mandatory coverage in the construction industry. What we agreed was that any legislation that was created for this had to achieve five goals. One was to minimize revenue leakage. Employers currently in the system are subsidizing those that are not. We need to eliminate the opportunity for anyone engaged in Ontario's construction industry evading contributing to the WSIB insurance plan. This full funding will contribute to eliminating the unfunded liability.

We need legislation that's easy to understand and a system that's easy to administer. We need to minimize the number of status determinations and we need to protect workers from coercion. Some workers may prefer IO status; others have been coerced into it by employers: "If you don't do it this way, you don't get work." Workers need to be protected from being forced to pay their own premiums.

At the end, the committee came together and supported mandatory coverage. Two groups, ResCon and the framing contractors, stated that mandatory coverage must also include a named-insured system for enforcement purposes.

So what you saw was management and labour coming together to support a bill such as Bill 119. It is important; we do need Bill 119 in the construction industry. The numbers are staggering; the dollar losses are staggering.

In April 2008, the Ontario Construction Secretariat commissioned a report about the underground economy. That report concluded that a major problem of the underground economy is independent operators. What they found was during the years 2003-05, the number of workers employed as independent operators was between 70,300 and 108,000, with their best estimate being approximately 84,500 workers generating a total income of \$2.8 billion. Approximately 22% of construction employment was under the guise of independent operator. The loss to the WSIB system alone is \$143 million a year. The loss to all governments and all government agencies ranged from \$1.6 billion to \$2.7 billion, with the best estimate being \$2 billion. You see, there is a need to plug this hole, to stop revenue leakage.

This is good for workers because it will provide coverage for more workers than we have now. Workers

are entitled to participate in the workers' compensation system. In 1919 we had the historic trade-off, where workers gave up the right to sue in exchange for the right to workers' compensation benefits. This should not be denied to any worker in Ontario, and Bill 119 will go a long way towards that. Again, we're talking about almost 85,000 workers who are presently excluded from the system.

It's good for employers—it's good for honest employers. You've heard that from employers groups who've been speaking in these last two days. It levels the playing field. When you see \$143 million not going into the system, that means honest employers are subsidizing dishonest employers. They're the ones who are having to make up to pay for this system. Bill 119 will remove this unfair advantage and will help level the playing field. That's why you're hearing honest construction employers supporting this bill.

Bill 119 also promotes health and safety, and that's especially important. It promotes health and safety for two reasons. The first thing is that it gets all construction workers into the occupational health and safety system. What you have now under the Occupational Health and Safety Act is a system whereby companies are required to have occupational health and safety committees; they're required to have occupational health and safety representatives. When you have companies on sites that are not true companies but are one person under the guise of a company, you do not see these occupational health and safety committees, you do not see occupational health and safety representatives.

The Ontario Construction Secretariat defined it this way: "driving the responsibility for safety and prevention to the lowest level." That's what Bill 119 will help to eradicate.

The other reason is for statistics purposes, and promotion and prevention. An important mandate of the WSIB is to promote health and safety. To do that effectively, it needs to know exactly what is going on in the various industries. In construction, they need to know the true picture of health and safety, the true picture of accidents that are going on in the province.

When you have 85,000 workers that are not in the system, you have 85,000 workers that the WSIB does not know about. By bringing everybody under the umbrella of the WSIB, and the Construction Safety Association as well, you get a better picture of health and safety, and a more accurate picture helps you work towards prevention.

It's good for the WSIB to fulfill its mandate. It has two purposes: providing benefits and services for workers, and prevention for health and safety. The system is losing \$143 million a year. That money could be better spent; it could be providing benefits and services for workers and it could be working to promote health and safety.

The council also supports the inclusion of executive officers in the system. While our main focus is on protecting workers and making sure workers are entitled to the benefits and return-to-work policies of the WSIB, we

feel it's also important that executive officers be included, to make sure that the system works. Right now, we think the independent operator has served as a loophole. We're afraid the executive officer system will also become a loophole. As the question was asked over here, how many people are going to become executive officers? Also, we don't think that having exceptions is good for bureaucracy. The WSIB is going to have to develop a system for determining who is a true executive officer and who isn't.

While we support the bill and urge you to pass it, we do have several concerns about the bill and we're recommending several changes to it.

The first is the exemption for the home renovation sector. We think that is a massive loophole that could be and will be exploited, and it should be closed. The first thing is, all workers who work on a construction site should be covered, and that includes roofers who do reroofing on a house. We submit that there's no reason why a worker who works on renovating homes for his living, such as repairing roofs, should be excluded from the right to coverage and the right to return to work, both benefits of the WSIB.

Also, those numbers are huge. The Ontario Construction Secretariat, in its 2008 report, stated that almost 87% of independent operators were found in the residential sector, with almost 55% of those coming from the home renovation sector. Thus, we're talking about a potential of over 40,000 workers still being excluded.

The problem won't end. We're desperately afraid that this loophole will be exploited and we're going to see a lot of people who are not in the home renovation sector but being classified as being in the home renovation sector.

Also, how is this system going to work? What if you have a worker who works on new construction one week and then moves to doing repairs and renovations another week? Simply put, that exemption is not workable in the construction industry. You have workers going back and forth from home renovations or repairs to new construction. How do you possibly regulate that? It will be very, very difficult to administer and enforce.

Again, we're talking about a bureaucracy that has to be created to administer this system, to make sure that people truly are in the residential home renovation sector and not using that as a guise. How do you regulate people who move in and out of the sector?

Our other concern is in terms of who will pay the premiums. It is submitted that workers should not have to pay their own premiums. That is not the purpose of the workers' compensation system. Again the historical trade-off: They've traded off the right to sue for WSIB benefits. It's not right that some workers have to pay their own premiums. I have to admit, Bill 119 seems unclear as to who will have to pay the premiums for people formerly classified as independent operators.

1730

If you look at subsection 12.2(1), it appears that you have independent operators being deemed to be workers so they get coverage, but then subsection 12.2(2) of the

bill seems to state that they also will be deemed to be their own employer and responsible for the premiums. I hope I'm wrong, I hope Bill 119 does not require workers to pay for their own premiums, but if I am correct, we submit that this must be amended to make it clear that workers formerly classified as independent operators do not have to pay their own premiums.

Another amendment that we're requesting is that the bill be amended to have a "no reprisal" clause in the Workplace Safety and Insurance Act, to protect workers from being coerced into paying their own premiums. What we're afraid of is that you will see companies that have enjoyed not paying CPP contributions, EI contributions and WSIB premiums now try to force their workers to pay their own premiums. This was an area that was addressed by JAIG. I urge you to read it. The JAIG report, which I know the provincial building trades council has enclosed with their brief, recommends that workers be protected from coercion.

The way we feel that this can be done is giving the WSIB the power to prevent employers from making workers pay their own premiums. How you would do it is similar to what's in the Labour Relations Act, that employers are not allowed to discipline or fire workers for refusing to pay their own premiums, and then the WSIB would have the power to reinstate workers that were fired or disciplined for exercising their right to have their employer pay their premiums.

In summary, we strongly support Bill 119. We think it's good for workers, it's good for employers, it's good for health and safety prevention, and it's good for the province of Ontario as a whole, but subject to those amendments that we're urging. Eliminate the home renovation exemption, make sure workers do not have to pay their own premiums and provide some protection in the WSIB by putting in a "no reprisal" clause.

The Chair (Mr. Shafiq Qaadri): Thank you. A firm minute per side. Mr. Miller.

Mr. Paul Miller: In your opinion, what accounts for the significant increase in independent operators in construction?

Mr. Jerry Raso: What accounts for it? I would think it's the economic situation, employers simply wanting to keep their money, not wanting to pay premiums. So they go to workers and say, "We want you to classify yourself as an independent operator so we don't have to pay the premiums, we don't have to pay CPP and EI contributions."

Mr. Paul Miller: In your opinion, what is the relationship between covering independent operators in the construction industry and reining in the underground economy in construction?

Mr. Jerry Raso: It's definitely connected. I urge you to read the construction secretariat's report. It talks about one of the major problems of the underground economy: employers misclassifying their employees as independent operators.

Mr. Paul Miller: Do you think that under these new rules that they're bringing forth—

The Chair (Mr. Shafiq Qaadri): With respect, I have to intervene there, Mr. Miller. Mr. Dhillon.

Mr. Vic Dhillon: Can you further elaborate as to why you feel executive officers should be included and possibly share an example or two about where unsavoury employers have given the title of executive officer to avoid paying the premiums?

Mr. Jerry Raso: We've actually seen examples in the construction industry already where people have been found doing work on construction sites—workers—and then we find out that a company literally has four or five or six executive officers. Everybody becomes an executive officer. We're more afraid of the issue of the executive officer, just like that, becoming a loophole. We want the door closed and—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. To Mr. Bailey.

Mr. Robert Bailey: Thank you, Mr. Raso and Mr. Little, for your presentation today.

Would you be supportive of something like the named-insurance system and of something like an Ontario health card, where that employee, man or woman, when they went to a job site, could prove that they're covered by either WSIB or something equivalent?

Mr. Jerry Raso: Those are two questions. In terms of named insured, I think we would support that. A problem is that now employers don't report the names of people that are covered under the system; they just report 10 employees when, in fact, they have 20 employees. A namedinsured system would be good for workers because one area that can be a big problem for workers is when they file WSIB claims for occupational disease that takes 20 years to develop, or hearing loss—they have to show the WSIB where they've been working for the last 20 years, and that's very hard for construction workers, who go from company to company. This way, a named-insured system would provide a good tracking system for the WSIB

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Raso, for your deputation on behalf of the Labourers' International Union of North America.

ONTARIO ROAD BUILDERS' ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I now invite our final presenters of the day, Mr. Bradford and Ms. Renkema of the Ontario Road Builders' Association. Welcome. As you've seen, you have 20 minutes. I invite you to begin now.

Mr. Rob Bradford: That's a go. Thanks, Mr. Chairman and members of the standing committee. I'm Rob Bradford, the executive director of the Ontario Road Builders' Association. I have with me Karen Renkema, who is our director of government relations.

Very briefly, ORBA is an association operating in the heavy construction industry. We represent about 100 contractors that build most of the provincial roads and bridges in Ontario and are very, very active in the muni-

cipal sector as well—most of the large companies whose names you'd recognize are members of our association. Our members consist of both union and non-unionized road building firms, so we're not coming at you from either direction today. We employ roughly 25,000 workers in peak season.

The issue of mandatory WSIB coverage in construction has been around as long as I have, and that's way too many more decades than I care to recount. That's why the advent of Bill 119 is encouraging to us. We are generally very supportive of the principles in Bill 119. We think it offers the opportunity to level the playing field. You've heard that before several times, particularly from the contractors' organizations. It's very, very frustrating for employers who play by the rules and cover their workers for WSIB to miss out on a million-dollar bid by a couple of thousand dollars and know it perhaps went to a contractor who's not carrying those costs—so from that point of view, we're very supportive.

We also believe that a mandatory coverage system should minimize WSIB revenue leakage. In theory, that's exactly how it should work, and I think we'd be rather disappointed if that weren't one of the outcomes. Likewise, we would be looking for mandatory WSIB coverage to ensure that premiums in our sector are decreased. We would expect to see decreased premiums due to the fact that we'd have a much larger pool of money being paid in for workers who aren't covered now.

It's perhaps important to note that from where we're coming from in the engineering sector, the heavy construction sector—however you want to name it—the underground employment in our industry only averages about 3%. As you've heard before, it's much, much more prevalent in other sectors of the industry. So why, then, are we even here today talking about Bill 119, even though our particular sector doesn't have as much of this underground economy element as other sectors? We have to share in the loss to the construction industry and we have to take our share in paying for coverage of workers who are not covered. We think our rates are inflated roughly 20% to make up the losses that we're seeing.

We think a system of mandatory coverage should be measured by its ability to prevent legitimate exemptions from being abused by industry participants or used to escape their statutory and payment obligations under the WSIA—and that's the current case with the independent operators' exemption. These loopholes place those employers complying with their statutory obligations at a competitive disadvantage to those who are willing to play fast and loose with the rules—to cheat, if you will. At issue here are not the exemptions in the legislation but instead the ability of the exemptions to be used as a loophole to avoid obligations under the Workplace Safety and Insurance Act.

Therefore, we believe that Bill 119 is certainly a step in the right direction. In addition to providing clarity on who should be covered, and therefore the financial ability to ensure a sustainable WSIB system, the bill, we think, also provides the legislative and regulatory tools that we need to devise a system of verifying coverage for the construction industry.

1740

We do have some questions, perhaps concerns even, on Bill 119, and I'm couching our support for the legislation in a couple of points that we'd like to raise to you, particularly on the issues of the renovation sector and the subject that almost every group has spoken to you so far on: the coverage of officers and directors. I'm going to ask Karen to now give you a little more detail on both those items.

Ms. Karen Renkema: According to our membership, the most important principle of mandatory WSIB coverage is fairness within the system. Therefore, they have concerns with the legislation with regard to mandating WSIB insurance coverage for legitimate executive officers of construction companies—subsection 12.2(1).

We question why the legislation would mandate WSIB coverage for those in our sector who operate as legitimate executive officers, i.e., presidents, general counsel, CFOs etc., and who do not, in any manner, perform construction work. Essentially, our members perceive this section of the legislation as merely a method to raise much-needed revenues for the WSIB. By requiring WSIB insurance for legitimate officers of a company who do not perform construction work, the legislation has not achieved its stated goal of improving safety and exposing the underground economy. Legitimate executive officers—non-construction workers—are not contributing to the underground economy as they do not work on a construction site and therefore carry no risk.

We understand that the intention of subsection 12.2(1) is to close the loophole that currently exists for construction workers to opt out of coverage. We also understand that mandating coverage for executive officers is, in part, a casualty of war in this legislation in order to close loopholes. We agree that the exploitation of current exemptions in the WSIA must be brought to an end.

We acknowledge that the government and the WSIB, in their enforcement activities, find it difficult to catch the bad actors in the system; for example, those who currently misrepresent themselves as executive officers, yet perform construction work. Although this challenge exists for the WSIB, this hurdle should not be the impetus for the government and the WSIB to search for revenues from those companies that are legitimately operating by the rules.

Without consideration for legitimate executive officers of construction companies, the government and municipalities will realize an increase in the cost of infrastructure. The cost of increased WSIB premiums will be borne by those who require the services of road builders to build public infrastructure. In addition to paying premiums for private insurance that covers executive officers for far more than workplace injuries, our members will also realize a substantial increased cost of paying WSIB premiums for executive officers who do not perform construction work.

There have been many suggestions over the years on how to determine who is a legitimate executive officer

and who is not. However, all of these suggestions have been devised without the full realization of a mandatory WSIB coverage scheme, as suggested by Bill 119. I know that the JAIG process has been mentioned a couple of times here. However, we suggest the legislation could be amended to allow, subject to the approval of the Lieutenant Governor in Council, the WSIB, in consultation with industry stakeholders, to make regulations that it deems appropriate to exempt legitimate executive officers from WSIB coverage. This would allow further exploration of an appropriate exemption, as the WSIB will be considering many policy and procedure modifications if this legislation is enacted. There may be further opportunities through these policy and procedure changes that have not yet been contemplated by the WSIB and industry stakeholders. Such a regulation could be tied to a fixed time period to allow discussions on alternatives, and if the industry and the WSIB cannot find an agreedupon solution to a legitimate executive officer exemption, then we would move forward as an industry operating under Bill 119, as currently drafted.

However, if such a regulation is not deemed appropriate, we request that in the course of implementing Bill 119 the government and the WSIB give serious consideration to ensuring that legitimate executive officers—those who do not perform construction work—be covered at a premium rate commensurate with the risk that they are exposed to.

Again, Bill 119 provides further tools and procedures for the WSIB to appropriately ascertain the legitimacy of an executive officer designation. In this case, section 9.3 of the WSIA, with its direct reference to the small company limit of five times 175% of the average industrial wage, could be used as a minimum qualification to be eligible for executive officer insurance. Those firms under the threshold would be ineligible to apply, while those above it would qualify for the risk-adjusted premium for their executive officers as defined in WSIA policy. This would preserve the legislative intent of the bill, while mitigating its impact on legitimate executive officers.

Our membership is further concerned with the current exemption in Bill 119 for home renovators. Currently, Bill 119 provides an exemption for a sector of the industry that clearly operates as construction workers and is at risk; however, mandating payment from another sector of the industry that legitimately employs not-atrisk executive officers. Therefore, we believe it to be appropriate to treat all facets of the industry fairly and require coverage from all at-risk construction workers.

As drafted, subsection 12.2(5) is not narrowly defined enough to prevent its manipulation and abuse in a sector of the industry that has grown well accustomed to avoiding its statutory obligations. One could easily contemplate a scenario where a homeowner pays a contractor's employees directly for the work performed, thereby removing the obligation of that contractor to remit WSIB premiums on behalf of his or her employees.

Although Bill 119 does specify that the exemption only applies to an individual who performs no con-

struction work other than exempt home renovation work, its potential for abuse is both clear and present. We believe that additional criteria need to be established in order to prevent the exemption from being abused.

As a potential remedy, we believe that an amendment to the bill is necessary which requires, again, subject to the approval of the Lieutenant Governor in Council, that the WSIB, in consultation with industry stakeholders, make regulations it deems appropriate that further restrict the ability of the home renovation exemption to be abused and applied to classes of individuals not contemplated under the act. Without such an amendment, the WSIB will continue to experience revenue leakage in this sector, which, in turn, will affect the premiums of all construction employers.

Finally, in order for the legislation to achieve the stated goals of levelling the playing field and uncovering the underground economy, the WSIB must implement a system of verifying WSIB coverage. We commend the government for amending section 183 of the WSIA in order to allow regulations related to verification of coverage. We further encourage the government and the WSIB to recognize the absolute need for a system to verify coverage; otherwise, those that have avoided paying WSIB premiums, those that under-report their payroll, and furthermore, those that find any regulatory loophole available, will continue to do so.

In summary, Bill 119 is absolutely a step in the right direction. With a few slight modifications, we believe the industry and our members will realize the benefits of a level playing field. I thank you for your time this afternoon and would welcome any questions.

The Chair (Mr. Shafiq Qaadri): Thank you. You have two minutes per side.

Mr. Vic Dhillon: Thank you for your presentation. With the passage of Bill 119, the legislative barriers for the creation of a verification system will be removed. You advocate for such a system. Now, going forward, could you give any advice, recommendations to the WSIB as to what type of system should be put in place?

Ms. Karen Renkema: Well, I think there have been many discussions regarding the named-insured system, and the named-insured system, again, is just a concept that stakeholders in the construction industry have talked about for many years now. Now that the legislative barriers have been removed, I think the opportunity, again, is for the industry to sit down and determine exactly what kind of system would work for both employers and employees that work within the system. At this point, without knowing exactly what changes would take place at the WSIB, I don't think we are at the point of recommending a specific system. However, I think it would behoove the government as well as the industry to sit down and have a real conversation about it.

Mr. Vic Dhillon: In your presentation, you indicated that WSIB premiums and rates are inflated by 20% because the costs for the injuries are paid by those who are playing by the rules and paying their fair share. Can you provide the committee with examples of any nega-

tive players or practices out there, of what's occurring in the construction industry today for that inflation of 20%?

Ms. Karen Renkema: I guess a specific example I could use is, a company has 20 employees, but only—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon.

Mr. Robert Bailey: Thanks, Ms. Renkema and Mr. Bradford, for coming in today. I've heard estimates in your industry alone that the implementation of this to the chief executive officers, independent operators etc. could cost as much as \$30 million. I don't know whether you can verify those numbers, but if that's the case, would these dollars not in fact come out of infrastructure projects funded by the province of Ontario so that cities, small towns etc., that want to build a bridge or sewer project are going to lose that money back to the government indirectly through WSIB? Would I be right in saying that?

Mr. Rob Bradford: I think Karen pointed that out quite clearly. Our customers, our government agencies—80% of our industry is taxpayer-funded dollars, so if we—and I'll refer again to double insurance—have to come up with cash to pay for a new insurance scheme for people who are already covered by insurance, that will go straight into the bid of the contractor, and it will mean that instead of paving 16 kilometres next year, you're going to pave 15, and we don't need that right now. You know what's going on with our infrastructure.

Mr. Robert Bailey: Yes. You also feel that moving to this named-insurance system would be a way of going, if we took a little more time to study this bill and more time to implement it?

Ms. Karen Renkema: I think a system of verification is the only way—and I think Les spoke to this, as well as COCA—to ensure that companies are both not only paying into the system but not under-reporting their payroll as well. Whether we call it a named-insurance system or a system of verification, I think we all mean the same thing. It just depends on, at the end of the day, exactly what the lingo will be for it.

Mr. Robert Bailey: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Bailey. Mr. Miller.

Mr. Paul Miller: I have a tendency to disagree. I don't like the thought of a named insurance. I would prefer everything under the WSIB, and I can't go with that.

In reference to the executive officers, I have a real problem with that. I want to know what the government is going to do to set up a system that's going to properly name and identify executive officers, and not in great numbers. You might have a company treasurer, you might have a company CEO, you might have a company this and that; I can see half a dozen in a large company—maybe. I don't want to see 50 newly created positions to be exempt from WSIB payments. I don't want to see that, and I don't see anything in that bill that addresses that, and that's a problem.

I also have a problem with the—operators do come to the job sites, owners do come. I don't care if you're a mid-size construction company or a large construction company. I've seen plenty of superintendents show up on job sites. They should be covered too.

If it's a percentage, that's different. We could always entertain a percentage. If they're only there 20% of the time and the rest of the time they're in the office, that's understandable. That could be negotiable, but I don't see anything in this bill that addresses that, and I have a real problem, because they can go under the guise of being a CEO or an executive officer, and in fact, they really aren't. There is the ability to get around the system there too.

I agree with you that some of them should be exempt, but I want strict numbers and I want to know who is considered a CEO in that. That's my biggest beef.

Ms. Karen Renkema: I don't think we disagree with you that only legitimate executive officers should be

covered. That's been our argument from the beginning of speaking about this bill. I think that right now, the way the executive coverage exemption happens is, it's not even necessarily an exemption given at the beginning; it's something that's determined through an audit. I think that the policy could be very much tightened up. I think that with the new tools that the WSIB is given—

The Chair (Mr. Shafiq Qaadri): I'll have to intervene there. Ms. Renkema and Mr. Bradford, thank you for your deputation and presence on behalf of the Ontario Road Builders' Association.

I'd just like to alert the committee that the deadline for filing amendments for this bill to the clerk is Thursday, November 20, at 5 p.m.

Is there any further business before this committee? If not, the committee stands adjourned until Monday, November 24 at 2:30 p.m., for clause-by-clause consideration of Bill 119. The committee is adjourned

The committee adjourned at 1754.



STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke–Lakeshore L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Cheri DiNovo (Parkdale-High Park ND)

Ms. Helena Jaczek (Oak Ridges-Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Mr. Khalil Ramal (London–Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC)

Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Robert Bailey (Sarnia-Lambton PC)

Mr. Jim Brownell (Stormont–Dundas–South Glengarry L)

Mr. Paul Miller (Hamilton East-Stoney Creek / Hamilton-Est-Stoney Creek ND)

Also taking part / Autres participants et participantes

Mr. Peter Shurman (Thornhill PC)

Clerk / Greffier

Mr. Katch Koch

Staff / Personnel

Mr. Avrum Fenson, research officer, Information and Research Services

CONTENTS

Tuesday 18 November 2008

Workplace Safety and Insurance Amendment Act, 2008, Bill 119, Mr. Fonseca / Loi de 2008 modifiant la Loi sur la sécurité professionnelle et l'assurance contre	
les accidents du travail, projet de loi 119, M. Fonseca	SP-441
Muskoka Builders' Association	SP-441
Ontario Pipe Trades Council	SP-444
Provincial Building and Construction Trades Council of Ontario	SP-447
Mechanical Contractors Association of Ontario	SP-450
Labourers' International Union of North America, Ontario Provincial Council	SP-453
Ontario Road Builders' Association	SP-456



SP-18



Governme Publicatio

SP-18

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Monday 24 November 2008

Journal des débats (Hansard)

Lundi 24 novembre 2008

Standing Committee on Social Policy

Workplace Safety and Insurance Amendment Act, 2008

Comité permanent de la politique sociale

Loi de 2008 modifiant la Loi sur la sécurité professionnelle et l'assurance contre les accidents du travail

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 24 November 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 24 novembre 2008

The committee met at 1430 in committee room 1.

WORKPLACE SAFETY AND INSURANCE AMENDMENT ACT, 2008

LOI DE 2008 MODIFIANT LA LOI SUR LA SÉCURITÉ PROFESSIONNELLE ET L'ASSURANCE CONTRE LES ACCIDENTS DU TRAVAIL

Consideration of Bill 119, An Act to amend the Workplace Safety and Insurance Act, 1997 / Projet de loi 119, Loi modifiant la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail.

The Chair (Mr. Shafiq Qaadri): Colleagues, I respectfully call the meeting of the Standing Committee on Social Policy. As you know, we're here to hear Bill 119 clause by clause.

I'd just like to respectfully remind all of us that this committee expires, by time allocation, at 5 p.m., at which point all motions that have not already been entered into the record will be entered in on an urgent basis. I also remind everyone that if there are requests made for recorded votes, all those votes will be deferred until 5 p.m.

Unless there's any other business, I would now invite submission of the first motion on the floor, which is government motion 1. Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much, Chair—

The Chair (Mr. Shafiq Qaadri): Just a moment. Sorry.

Anterior to that is: Shall sections 1, 2 and 3, for which no motions have so far been received, carry as is? Carried.

Now we'll proceed to Mr. Dhillon.

Mr. Vic Dhillon: I move that section 12 of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be amended by adding the following subsection:

"Exception, construction

"(1.1) Despite paragraph 3 of subsection (1), a partner in a partnership that carries on business in construction may make an application under subsection (1) for a declaration that he or she is deemed to be a worker to whom the insurance plan applies for any period of time

during which the partner is not deemed to be a worker under subsection 12.2(1)."

I would like to give an explanation for this, with your permission?

The Chair (Mr. Shafiq Qaadri): Absolutely.

Mr. Vic Dhillon: This is a consequential amendment to the regulatory power to allow for the creation of an exemption of executive officers of corporations and partners in a partnership if the prescribed conditions are met. The government has listened to the concerns expressed by stakeholders regarding including executive officers in this legislation. In response to these concerns, this motion, along with other related motions, would establish a government regulation-making authority to exempt an individual executive officer or partner who works exclusively in the office and not on a construction site. This regulation-making authority is in recognition of the fact that some executive officers or partners in a partnership may not be exposed to the risks of a construction site. With the establishment of a regulation-making authority, the government would be able to initiate consultations with stakeholders to determine the best way to create any exemption.

In creating an exemption, the government would be mindful of any loopholes that may threaten the integrity of mandatory coverage. The following exemption would be limited by conditions including the following: the minimum number of executive officers; the nature of the work performed by a partner or executive officer—for example, whether they're exposed to the hazards of a construction site; the size of the partnership or corporation and the manner of determining the size of each; the number or the manner of determining the number of partners of a partnership or executive officers of a corporation that are exempt.

That is the explanation.

We will, obviously, be in support of this motion.

The Chair (Mr. Shafiq Qaadri): We'll open the floor for questions and comments. I just remind everyone, because of legal framework intricacies, we will be hearing but not voting on government motion 1; hearing and not voting on government motion 3; and then, proceeding to hear and vote on government motion 9, which therefore, will enable 1 and 3, as I've just mentioned. So, debate and comment is open; vote is deferred.

First comment, Mr. Miller.

Mr. Paul Miller: In reference to this, how are you going to determine how many and who are considered

officers of the company, and how are you going to maintain, if they do decide to visit their work sites and they're not covered, as a superintendent might do—if I was the head of a construction company, I most likely would want to go out and look at my projects on numerous occasions during the building process. How are you going to determine how many are considered officers and how many—if they're going to take private insurance, and does it cover them 25% of the time, does it cover them 100% of the time? What's the government's plan on that?

The Chair (Mr. Shafiq Qaadri): Just before you answer, Mr. Dhillon, I'd just like to once again announce for the committee, just so that everyone is aware of the time frame, we're time-allocated, as you know, and the committee will expire by 5 p.m., and any recorded vote requests will be deferred until 5 p.m. Please proceed, Mr. Dhillon.

Mr. Vic Dhillon: Okay. In the past, there has been abuse in this way, by having many executive officers. We are of the position that we will be consulting with the stakeholders to determine how we can create a loophole-free type of system in regard to this. So we'll be having consultations to ensure that there's no "cheating," as was happening in the past.

Mr. Paul Miller: Just one quick question: You're going to consult with the people who are involved, but has the government got a position on—for instance, if you had 100 employees, you're allowed two CEOs or two operating officers; if you have 1,000 employees, you're allowed four? Have there been any numbers put forth? If you're going to consult with some of the companies, they might want to say, "Well, I want 10, I want 20, I want 30." How is the government going to determine what's fair and what isn't?

Mr. Vic Dhillon: Again, it's premature. There are going to be consultations with the stakeholders. There are really no numbers that I can give you right now, because the consultations haven't taken place.

Mr. Paul Miller: So this is one of the bills you're deferring? This is a part of the bill you're deferring until later?

Mr. Vic Dhillon: No.

Mr. Paul Miller: I mean, this bill is going forward.

Mr. Vic Dhillon: Yes, but—

Mr. Paul Miller: Are you going to amend it later?

Mr. Vic Dhillon: No, we're creating a regulation-making authority. Again, that will be done in consultation with the stakeholders, so I can't comment on what you're referring to in terms of any numbers.

Mr. Paul Miller: So once this bill is passed, you're going to add regulations to it to interpret the amendments to the bill. Is that what you're telling me?

Mr. Vic Dhillon: No, no. What I'm saying is there will be consultations with respect to what's stated in this motion. It's premature to say anything—

Mr. Paul Miller: You're going to do this at committee level?

Mr. Vic Dhillon: Pardon me?

Mr. Paul Miller: When are you going to do this?

Mr. Vic Dhillon: No. Again, there will be consultations and, during those consultations, we will determine the best way to address this issue.

Mr. Paul Miller: Okay. I think I'm confused. Okay, thanks.

The Chair (Mr. Shafiq Qaadri): I just want to make sure that the deferrals that are being referred to are not confused. Maybe I'll get legislative counsel to just quickly—I'm talking about various sections.

Mr. Paul Miller: You mentioned 1, 3 and 9—

The Chair (Mr. Shafiq Qaadri): Yes, 1, 3 and 9.

Mr. Paul Miller: And this is one of those?

The Chair (Mr. Shafiq Qaadri): This is procedural—

Mr. Paul Miller: This is one of them?

The Chair (Mr. Shafiq Qaadri): —because 9 enables the preceding two. Do you want to just comment on that?

Ms. Catherine Macnaughton: Yes. There is a motion that the government is proposing to put forward, if it's entered, that would amend section 12.2 of the act, which is in the bill, which would give the Lieutenant Governor in Council the authority to make the regulations exempting partners or executive officers from the application of the new rules.

Consequential upon that is the first government motion—actually, it's motions 1 and 3—which would amend section 12 in order that if a partner or executive officer winds up being exempt from the 12.2 rules, they would still, under section 12, if these motions pass, be able to voluntarily apply to be covered by—

Mr. Paul Miller: Voluntarily.

Ms. Catherine Macnaughton: Which is what the current act provides now. It would put it back to the status quo under what the act is now, with respect to any partners or executive officers who would become exempt from 12.2 application by regulation. So, as a result, because of the order of the act, government motion 6 might also be set down until after the reg. authority provisions are voted on, because it's—

Mr. Paul Miller: It's 1, 3 and 6 now?

Ms. Catherine Macnaughton: Yes, because if the reg. authority motion isn't carried, these others become useless; they're not required.

The Chair (Mr. Shafiq Qaadri): So just to be clear, 9 is enabling of the ones that have just been named. That's what I'm referring to, and I'll let you deliberate elsewhere.

Are there any further questions or comments? Mr. Levac.

1440

Mr. Dave Levac: Just a point of clarification: By doing what you just said you're going to do for the committee to consider, it may answer some of the questions that amendments 1, 3 and 6 create during debate, because if section 9 is accepted, it may have the definitions and the answers to the questions that presently Mr. Miller asked or that anyone else would have in amendments 1, 3

and 6. I think that might be a little helpful if we understood that, to make sure that the questions could get addressed. Is it fair to say it that way? Okay, thank you.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on motion 1? We will, as I say, defer the vote on that.

I would now invite PC motion 2.

Mr. Robert Bailey: I move that subsection 12(2) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be amended by striking out "other than construction."

This would return the bill to the status quo and it would allow independent operators and others to buy optional coverage other than the WSIB.

The Chair (Mr. Shafiq Qaadri): Questions, comments?

Mr. Vic Dhillon: I just want to put into the record that we will be opposing this motion for the following reason: This motion would have the effect of continuing to allow executive officers to have additional optional coverage under the act, which is to say that they would not be subject to mandatory coverage. The government is proposing a series of motions that would allow the government to establish a regulation to exempt executive officers of corporations from compulsory insurance in certain circumstances. The government believes that this approach is preferable to a wholesale exemption as it would provide time for the government to consult with stakeholders to produce an exemption that works for our stakeholders and works well for the WSIB.

Further, the government motions are broader in that they recognize that partners in a partnership may not be exposed to the risks of a construction site and, therefore, an exemption for a partner may be appropriate. Accordingly, we will not be in support of this motion.

The Chair (Mr. Shafiq Qaadri): Are there any

further questions?

Mr. Paul Miller: Are we recording the votes, which way we're going here?

The Chair (Mr. Shafiq Qaadri): Only if requested, and then all those votes will be deferred till 5 p.m.

Mr. Paul Miller: Okay. Then, I'm requesting it on all of them, and we will be opposed to this one.

The Chair (Mr. Shafiq Qaadri): That is your prerogative. All votes will therefore be deferred till 5 p.m.

We will proceed with discussion and then I guess we'll do a double deferral for the enabling legislation in

Are there any further comments on PC motion 2? Deferred, okay.

Government motion 3.

Mr. Vic Dhillon: I move that section 12 of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be amended by adding the following subsection:

"Exception, executive officers re construction

"(2.1) Despite subsection (2), a corporation that carries on business in construction may apply to the board for a declaration that an executive officer of the

corporation is deemed to be a worker to whom the insurance plan applies for any period of time during which the executive officer is not deemed to be a worker under subsection 12.2(1)."

This is a consequential amendment to the regulatory power to allow for the creation of an exemption of executive officers of corporations and partners in a partnership if the prescribed conditions are met.

The Chair (Mr. Shafiq Qaadri): Any comments on government motion 3? If there are no further comments, the vote will be deferred.

We'll now go to PC motion 4.

Mr. Robert Bailey: I move that paragraphs 1, 2 and 3 of subsection 12.2(1) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out and the following substituted:

"1. Every independent operator carrying on business in construction who is not covered by comprehensive insurance.

"2. Every sole proprietor carrying on business in construction who is not covered by comprehensive insurance.

"3. Every partner in a partnership carrying on business in construction who is not covered by comprehensive insurance."

This would allow for optional coverage for these operators, not just that provided by the Workplace Safety and Insurance Board.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: Our position on this is that this motion would have the effect of creating a system whereby independent operators, sole proprietors and partners in a partnership carrying on business in construction would not be subject to mandatory WSIB coverage under the act if these individuals have private insurance coverage. The language of the motion is ambiguous, in that "comprehensive insurance" does not clarify the type of insurance they would have to carry.

Private insurance is not an alternative for the WSIA insurance coverage provided by the WSIB; private insurance simply provides financial compensation for injuries, and the levels of that coverage vary greatly from policy to policy. Further, it does not include the sophisticated prevention component, return-to-work retraining and other benefits and services provided by the WSIB insurance system.

Nothing in Bill 119 would preclude individuals who currently hold private insurance from continuing to hold private insurance in addition to the WSIA coverage.

For those reasons, we will be opposing this motion.

The Chair (Mr. Shafiq Qaadri): Further comments? Vote deferred.

PC motion 5.

Mr. Robert Bailey: I move that paragraph 4 of subsection 12.2(1) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out.

This would have the effect of removing those executive officers altogether from Bill 119.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: This is a consequential amendment to motion number 2 that removes executive officers from the compulsory insurance scheme. This amendment would lead to the continued misuse of these provisions by employers wishing to get out of paying premiums for their workers and would not ensure that everyone working on a construction site is covered by the WSIB.

The government's amendment allows for a limited exemption to be provided for those who, for example, exclusively work in the office, as it would be done through regulation. Consultations with stakeholders would also occur.

We will be opposing this motion.

The Chair (Mr. Shafiq Qaadri): Further comments? Vote deferred.

Motion 6: the government side. Mr. Dhillon.

Mr. Vic Dhillon: I move that paragraphs 3 and 4 of subsection 12.2(1) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out and the following substituted:

"3. Except as otherwise provided by the regulations, every partner in a partnership carrying on business in construction.

"4. Except as otherwise provided by the regulations, every executive officer of a corporation carrying on business in construction."

Our explanation for this is that this is a consequential amendment to the regulatory power to allow for the creation of an exemption of executive officers of corporations and partners in a partnership if the prescribed conditions are met.

The Chair (Mr. Shafiq Qaadri): Debates? Rebuttals? Cross-examinations? Seeing none, we'll proceed to PC motion 7.

Mr. Robert Bailey: I move that subsection 12.2(2) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be amended by striking out "partnership or corporation" and substituting "or partnership".

This would have the effect of removing a corporation from being a deemed employer.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: Again, this is a consequential amendment to motion number 2 that removes executive powers from the compulsory insurance scheme. The government, for the reasons previously stated under motion number 2, does not support this amendment.

The Chair (Mr. Shafiq Qaadri): Further commentary? Vote deferred.

NDP motion 8.

Mr. Paul Miller: I move that subsection 12.2(2) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out and the following substituted:

"Deemed employer

"(2) When an independent operator, sole proprietor, partner or executive officer is deemed to be a worker under subsection (1),

"(a) the person who retains the independent operator or sole proprietor is deemed to be the employer for the purposes of the insurance plan;

"(b) the person who retains the partnership is deemed to be the employer for the purposes of the insurance plan if the partnership has no workers other than partners of

the partnership;

"(c) the partnership of which the person is a partner is deemed to be the employer for the purposes of the insurance plan if the partnership employs workers other than partners of the partnership; and

"(d) the corporation of which the person is an executive officer is deemed to be the employer for the purposes

of the insurance plan."

Our explanation for this is that we believe that there should be no exemptions in the WSIB coverage in the construction industry. With respect to the home renovation industry, there's no reason that a construction worker who's employed in the home renovation sector should not have the mandatory coverage. For example, a roofer who risks his safety on roofs in the home renovation sector should have the same coverage as a roofer in the new construction sector. Specifically, the amendment strikes out this exemption.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: This motion would require that the premiums of independent operators, sole proprietors and partners in a partnership with no workers are paid by anyone who retains them to perform construction work. Under the scheme of the government bill, we propose the creation of a system that does not change the contractual nature of the relationship in industry. The opposition motion would remove the flexibility of parties to negotiate with the retainer of the services the best arrangement for both of them. The government does not want that. This amendment is contrary to the government's proposed scheme.

The Chair (Mr. Shafiq Qaadri): Comments? If not, vote deferred.

To government motion 9, the enabling one.

Mr. Vic Dhillon: I move that section 12.2 of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be amended by adding the following subsections:

"Regulations, partners and executive officers

"(4.1) The Lieutenant Governor in Council may make regulations,

"(a) exempting a partner or executive officer from the application of subsections (1) to (4);

"(b) prescribing the conditions that must be satisfied by the partner, partnership, executive officer or corporation, as the case may be, for the exemption to apply.

"Same

"(4.2) A regulation made under subsection (4.1) may prescribe conditions relating to, but not limited to,

"(a) the minimum number of executive officers of the corporation;

"(b) the nature of the work performed by a partner or executive officer;

"(c) the size of the partnership or corporation and the manner of determining the size of each;

"(d) the number or the manner of determining the number of partners of a partnership or executive officers of a corporation that are exempt.

"Same

"(4.3) A regulation made under subsection (4.1) may,

"(a) prescribe different conditions relating to partners and executive officers and to partnerships and corporations;

"(b) prescribe such requirements as may be necessary to enable the board to administer the regulation and to determine if, at any particular time, a partner or executive officer is exempt from the application of subsections (1) to (4)."

This is in relation to item 1, and the following is our explanation: This motion relates to the creation of a regulation-making authority to exempt executive officers and partners in a partnership from mandatory coverage. The motion would amend the bill to create the regulationmaking authority. The amendment to the bill would stipulate that a regulation made to exempt executive officers or partners may prescribe conditions relating to, but not limited to: the number of executive officers; the nature of the work performed by a partner or executive officer—for example, whether the executive officer is exposed to the hazards of a construction site; the size of the partnership or corporation and the manner of determining the size of each; the number or the manner of determining the number of partners of a partnership or executive officers of a corporation that are exempt.

This regulation-making authority is in recognition of the fact that an individual executive officer or a partner in a partnership may not be exposed to the risks of a construction site. With the establishment of a regulation-making authority, the government would be able to initiate consultations with stakeholders to determine the best way to create an exemption. In creating an exemption, the government would be mindful of any loopholes that may threaten the integrity of mandatory coverage.

The government has listened to the concerns expressed by stakeholders regarding including executive officers in this legislation. In response to these concerns, this motion, along with the other related motions, would establish a government regulation-making authority to create exemptions not only for executive officers, but also for partners in a partnership, under the prescribed conditions.

The Chair (Mr. Shafiq Qaadri): Further comments?

Ms. Laurie Scott: This is giving the government more power to make regulations to exempt the executive officers from the bill. We'd prefer to have motion number 5 that was read in, which removes the executive officers from the bill altogether. You just don't need another layer of more rules and regulations.

I want to read into the record some comments made by Judith Andrew from the CFIB when she was told about

this amendment.

"This amendment is for big business, requested by organizations which represent big business.

"How on earth will they ever police who sets foot on a job site and who doesn't?

"The amendment would worsen the tilted playing field for small and medium-sized businesses, as more of their

for small and medium-sized businesses, as more of their owners, the executive officers, are present on job sites, even if not on ladders and roofs.

"If the government wants to insist on insurance, at least allow a choice of insurance carrier for superior 24/7 policies, and all involved should carry their card as proof of insurance on the job site."

I just wanted to add those comments from the CFIB on one of the amendments that is being brought forward by the government.

In regard to regulations as to who's an executive officer or not, it would be much clearer, in the opinion of the PC Party, to remove executive officers from the bill altogether.

The Chair (Mr. Shafiq Qaadri): Mr. Miller, and then Mr. Dhillon.

Mr. Paul Miller: I'm surprised that this wasn't brought forward when we were listening to the submissions; and when it was brought forward, why it wasn't dealt with in the bill and added to the bill. I think you're headed for a lot of aggravation after, when companies come to you—small, large—and argue about who is an executive officer and who isn't. I would think that you would have had the foresight to have this covered before you brought the bill forward and rushed it through. I think you're headed for a lot of meetings in the next year or so due to some of the concerns about this bill.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Vic Dhillon: With respect to the official opposition, Ms. Andrew was here representing the CFIB, and we weren't satisfied with the answers she gave, so I would really question her analysis on this.

The Chair (Mr. Shafiq Qaadri): The vote is deferred, unless there are comments on this.

NDP motion 10.

Mr. Paul Miller: I move that subsection 12.2(5) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out.

The explanation, once again, is that we don't believe that there should be any exemptions to the WSIB coverage in the construction industry, especially with respect to the home renovation industry. I don't have to read the rest because it's going over the same thing.

500

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: This motion would remove the home renovation exemption for independent operators, sole proprietors, partners in a partnership and executive officers of corporations who only perform home renovations on private residences for home occupiers or their family members. Removing this exemption would have the effect of requiring home occupiers to register with the

WSIB every time any home renovation work is contracted. This would impose unfair costs and an administrative burden on people who are not in the construction industry, but are simply upgrading their residences for living purposes. This is consistent with other jurisdictions: Alberta, Manitoba and New Brunswick.

The government will not be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Miller.

Mr. Paul Miller: I find that interesting. I don't know how you determine what is construction and what isn't construction. You could have a building, a sizable building—it might be a home, it might be a 10,000-square-foot home being built—and you have beams, you have cement, you have bricks, you have all the things that are applicable to a large construction site. What you're doing here is not allowing these people to be covered properly under the WSIB.

When you talk about a renovation, how do you as a government determine what a renovation is and what a renovation isn't? If I say that I've got 10% of a building that's there and I want to renovate, and I've now increased the size of that building by 90%, I would consider that new construction big construction, depending on the size. It could be a factory.

You have not spelled out what renovation means to a point where it would be covered. What you've done is left an open door and what you're going to find is that all these smaller companies are now going to become home renovators, and companies that weren't formerly home renovators are now going to apply for a new way to get around this.

I think what you've done here by not including home renovators in the WSIB coverage is you've created a nightmare. This is going to come back and haunt you.

The Chair (Mr. Shafiq Qaadri): Any further comments? Yes, Mr. Dhillon.

Mr. Vic Dhillon: First of all, I would like to correct the record in that I said "would" instead of "could" in the sentence, "Removing this exemption could have the effect of requiring home occupiers to register with the WSIB," etc. So I would like to just correct the fact that I said "would" where it should have been "could."

With respect to Mr. Miller's comment, everything is crystal clear. It's home renovations on private residences. So with your comment about factories, that doesn't make any sense. If it's a resident's private residence, that would apply, and that's been made clear throughout this bill.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: Thank you. I'm glad you clarified that for me, but I'd consider Stelco as private property; it's a private business—same thing.

Mr. Vic Dhillon: Are there residents?

Mr. Paul Miller: Residents? People work there 24 hours a day. I don't know what you mean by that—just because it's a residence? I'm confused.

Mr. Vic Dhillon: I think it's pretty clear. Mr. Paul Miller: That's your opinion.

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

I will now invite NDP motion 11.

Mr. Paul Miller: I move that subsection 12.2(6) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out.

The reason for this is that this strikes out the clause alluding to the notification of material change under the home renovation exemption.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: This is a consequential amendment to NDP motion number 10 to remove the home renovation exemption, which the government opposes—just like this motion.

The Chair (Mr. Shafiq Qaadri): Are there any further comments? As you know, vote deferred.

NDP motion 12.

Mr. Paul Miller: I move that subsection 12.2(7) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out.

This is a consequential amendment that strikes out the definitions section of the home renovation exemption clause.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: This is a consequential amendment to NDP motion 10 to remove the home renovation exemption. The definitions related to the home renovation exemption would be unnecessary if the exemption was removed.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed to NDP motion 13.

Mr. Paul Miller: I move that subsection 12.3(1) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out and the following substituted:

"Registration, person retaining independent operator

"12.3(1) Every person who, for the first time after this subsection comes into force, retains an independent operator who is carrying on business in construction shall register with the board within 10 days after retaining the independent operator, unless the person is already registered with the board."

The reason for this amendment is it inserts the word "retains" into the 10-day registration clause.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: This motion is related to the series of NDP motions that would require that the premiums of independent operators, sole proprietors and partners in a partnership with no workers are paid by anyone who retains them to perform construction work. Specifically, this provision would require the engager of an IO to register with the WSIB.

We want to create a system where independent operators who are essentially running their own business can negotiate with the retainer of their services as to how premium costs are included as part of a contract for service.

The government does not support this motion.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to NDP motion 14.

Mr. Paul Miller: I move that subsection 12.3(2) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out and the following substituted:

"Registration, person retaining sole proprietor

"(2) Every person who, for the first time after this subsection comes into force, retains a sole proprietor who is carrying on business in construction shall register with the board within 10 days after retaining the sole proprietor, unless the person is already registered with the board."

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: This motion is related to the series of NDP motions that would require that the premiums of independent operators, sole proprietors and partners in a partnership with no workers are paid by anyone who retains them to perform construction work. Specifically, this motion would require a person who retains a sole proprietor to register with the board and pay premiums for the sole proprietor hired.

We want to create a system where independent operators who are essentially running their own business can negotiate with the retainer of their services as to how premium costs are included as part of a contract for

For these reasons, we will not be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Any comments?

Mr. Paul Miller: You're saying you want blanket coverage for people, and now you're allowing people to negotiate for it. I don't understand that. Maybe you can explain that further for me.

Mr. Vic Dhillon: I have explained our position

clearly. It is what it is.

Mr. Paul Miller: That's your answer?

Mr. Vic Dhillon: That's my answer.

Mr. Paul Miller: Okay.

The Chair (Mr. Shafiq Qaadri): NDP motion 15.

Mr. Paul Miller: I move that subsection 12.3(3) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out and the following substituted:

"Registration, person retaining partnership

"(3) Every person who, for the first time after this subsection comes into force, retains a partnership that carries on business in construction and does not have any workers other than partners of the partnership shall register with the board within 10 days after retaining the partnership, unless the person is already registered with the board."

The reason for this is, again, the amendment inserts the word "retains" in the clause.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: Again, this motion is related to the series of NDP motions that would require that premiums of the independent operators, sole proprietors and partners in a corporation with no workers are paid by anyone who retains them to perform construction work. Specifically, this motion would require a person who retains a partnership without workers to register with the board and pay premiums for the partnership hired.

We want to create a system where those subject to mandatory coverage for essentially running their business can negotiate with the retainer of their services as to how premium costs are included as part of a contract.

Those are our reasons we will not be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Comments?

We'll now proceed to government motion 16.

Mr. Vic Dhillon: I move that subsection 12.3(3) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out and the following substituted:

"Same

"(3) Every partner in a partnership that carries on business in construction and does not employ any workers shall register with the board within 10 days after becoming such a partner unless the partner is not subject to subsections 12.2(1) to (4)."

This is a consequential amendment to the regulatory power to allow for the creation of an exemption of executive officers of corporations and partners in a partnership if the prescribed conditions are met.

The Chair (Mr. Shafiq Qaadri): Comments? NDP motion 17.

Mr. Paul Miller: I move that subsection 12.3(5) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out.

The amendment strikes out references to the registration and the home renovation exemption.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: This is a consequential amendment to NDP motion number 10 to remove the home renovation exemption. The government supports an exemption for home renovation work and therefore does not support this motion.

The Chair (Mr. Shafiq Qaadri): Further comments? NDP motion 18.

Mr. Paul Miller: I move that subsection 12.3(7) of the Workplace Safety and Insurance Act, 1997, as set out in section 4 of the bill, be struck out.

The reason for this explanation: This strikes out the registration and material change in the home renovation exemption.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Chair. This is a consequential amendment to NDP motion number 10 to remove the home renovation exemption. The government supports an exemption for home renovation work and therefore does not support this motion.

The Chair (Mr. Shafiq Qaadri): Further comments? NDP motion 19.

Mr. Paul Miller: This won't be consequential, I can assure you.

I move that section 4 of the bill be amended by adding the following section of the Workplace Safety and Insurance Act. 1997:

"Prohibition against intimidation or coercion

"12.4(1) No employer, person acting on behalf of an

employer or other person shall,

- "(a) refuse to employ or refuse to continue to employ a person, or discriminate against a person who is deemed to be a worker under section 12.2(1) in regard to employment or any term or condition of employment, because the person does not agree to pay all or part of any premiums payable in respect of the person;
- "(b) impose any condition in a contract of employment or propose the imposition of any condition in a contract of employment that seeks to impose a duty on a person who is deemed to be a worker under section 12.2(1) to pay all or part of any premiums payable in respect of the person; or
- "(c) seek, by the use of threat of dismissal or other retribution, the imposition of a pecuniary or other penalty or any other means, to compel a person who is deemed to be a worker under section 12.2(1) to pay all or part of any premiums payable in respect of the person.

"Arbitration

- "(2) If a person who is deemed to be a worker under section 12.2(1) complains that an employer, a person acting on behalf of an employer or another person has contravened subsection (1), the person who complains may,
- "(a) have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any; or
- "(b) file a complaint with the board, in which case the rules governing the practice and procedure of the board apply to the complaint with all necessary modifications.

"Inquiry by board

"(3) The board may inquire into a complaint filed under subsection (2).

"Onus of proof

"(4) If a person files a complaint or grievance under subsection (2), the burden of proof that an employer, a person acting on behalf of an employer or another person did not act contrary to subsection (1) rests with that employer or person.

"Powers of the board

- "(5) If the board determines that the employer, the person acting on behalf of the employer or other person has contravened subsection (1), the board may,
- "(a) levy a penalty on the employer not exceeding the amount of the worker's net average earnings for the year preceding the contravention;
- "(b) direct that the person who is deemed to be a worker under section 12.2(1) be hired for the position or reinstated to his or her position or paid appropriate compensation in lieu of being hired or reinstated;
- "(c) order compensation to the worker for any lost wages and benefits;
- "(d) make any other order it deems just and appropriate in the circumstances.

"Appeal

"(6) An appeal of a decision of the board under this section may be made to the appeals tribunal."

The reason for 19: This amendment creates a noreprisal clause to protect workers from unscrupulous employers who try to force them to pay their own premiums, regardless of who is legally required to pay the premiums.

This is obviously a very important amendment that protects workers in our province from any retaliation, and I would hope that both parties would see fit to support this amendment.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Comments?

Mr. Vic Dhillon: This motion is consequential to NDP motion 8, which would make the person who retains an independent operator, sole proprietor or a partnership with no workers liable for the premiums.

Under the scheme of the government bill, we propose the creation of a system that does not change the contractual nature of the relationship in the industry. We want to create a system where independent operators who are essentially running their own business can negotiate with the retainer of their services as to how premium costs are included as part of a contract. This amendment is counter to the government's proposed scheme.

For these reasons, we will not be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: It appears that the government does not want to protect workers in this province by voting against this amendment. This is protecting workers in their place of employment against any intimidation. I'm surprised that the government would not be supporting something like this, considering they're coming forth with a blanket protection for workers, yet they don't want to deal with people who aren't treating workers properly. Really amazing.

Mr. Vic Dhillon: This bill is all about protecting workers and the safety of workers. Independent operators are business owners and, being business owners, I'm sure they're very capable of negotiating with the engagers of their services in how premium costs are covered.

The Chair (Mr. Shafiq Qaadri): Further comments? Now to NDP motion 20.

Mr. Paul Miller: I move that subsection 141.1(1) of the Workplace Safety and Insurance Act, 1997, as set out in section 5 of the bill, be struck out and the following substituted:

"Certain contractors and subcontractors in construction

"Application

- "141.1(1) This section applies when a person retains a contractor or subcontractor to perform construction work who is not,
 - "(a) an independent operator;

"(b) a sole proprietor; or

"(c) a partnership that has no workers other than partners of the partnership."

The explanation for this: This amendment takes out the word "directly" because sometimes the party that directly employs a worker is not the party that ultimately retains the workers. Pretty basic, and I would hope this would be supported.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: This amendment is consequential to NDP motion 8, which would require the person who retains the independent operator, sole proprietor or partnership with no workers to pay premiums. We want to create a system where independent operators who are essentially running their own business can negotiate with the retainer of their services as to how premiums are included as part of a contract.

1520

This amendment is counter to the government's proposed scheme. Specifically, this motion is inconsistent with the government's intent to register these individuals with the WSIB and make them or the person who directly retains them more responsible for their WSIB cost if those persons are subject to mandatory coverage default.

That's our explanation and we will be opposing this motion.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Paul Miller: Yes, Mr. Chairman, there was a slight mix-up there. The explanation part should have been, "This carves out groups who should pay premiums." The other explanation I gave will actually be to 21. So that was vice versa on the explanations for 20 and 21.

The Chair (Mr. Shafiq Qaadri): Any comments? We'll move to NDP motion 21.

Mr. Paul Miller: I move that subsection 141.1(2) of the Workplace Safety and Insurance Act, 1997, as set out in section 5 of the bill, be amended by striking out "who directly retains a contractor or subcontractor" in the portion before clause (a) and substituting "who retains a contractor or subcontractor".

As far as the explanation, that would be the switch on 20 and 21.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: This amendment is consequential to NDP motion number 8, which would require the person who retains the independent operator, sole proprietor or a partnership with no workers to pay premiums and is contrary to the government's proposed scheme.

The Chair (Mr. Shafiq Qaadri): Any further comments? If not, we'll proceed to NDP motion 22.

Mr. Paul Miller: I move that subsection 141.1(8) of the Workplace Safety and Insurance Act, 1997, as set out in section 5 of the bill, be struck out.

The explanation: It strikes out 141.1(8).

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: This is a consequential amendment to motion number 10, which would remove the home renovation exemption. The government supports an exemption for home renovation work and therefore does not support this motion.

The Chair (Mr. Shafiq Qaadri): Further comments? If not, we'll move to NDP motion 23.

Mr. Paul Miller: I move that subsection 141.2(1) of the Workplace Safety and Insurance Act, 1997, as set out in section 5 of the bill, be struck out and the following substituted:

"Certain construction work, obligations respecting certificates

"Application

"141.2(1) This section applies in respect of a person who retains a contractor or subcontractor to perform construction work and the contractor or subcontractor is not,

"(a) an independent operator;

"(b) a sole proprietor; or

"(c) a partnership that has no workers other than partners of the partnership."

This explanation is that it inserts the word "retains" in the section regarding obligations respecting certificates.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: This is a consequential amendment to motion number 8 and motion number 20. Independent operators, sole proprietors and partnerships with no workers other than the partners would not have to register with the board, so therefore they would not require clearance certificates. The government supports a requirement for these persons to register with the WSIB and therefore does not support this motion.

The Chair (Mr. Shafiq Qaadri): Further comments? NDP motion 24.

Mr. Paul Miller: I move that subsection 141.2(10) of the Workplace Safety and Insurance Act, 1997, as set out in section 5 of the bill, be struck out.

The explanation: This strikes out the reference to home renovation subsection 141.2(10).

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: This is a consequential amendment to NDP motion number 10 to remove the home renovation exemption. The government supports an exemption for home renovation work and therefore does not support this motion.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Miller, just to clarify, did you want recorded votes on everything or just on the motions?

Mr. Paul Miller: On all the motions, at the end I'd like a recorded vote.

The Chair (Mr. Shafiq Qaadri): Fine. Since no motions have been brought forward so far for section 6, we can actually vote on that right now.

Those in favour of section 6 as is, if any? Those opposed? Section 6 carries.

We'll now proceed to NDP motion 25.

Mr. Paul Miller: I move that section 7 of the bill be struck out and the following substituted:

"7. Section 149 of the act is amended by adding the following subsections:

"Same, false or misleading statement, s. 12.3(4)

"(4.1) A person who knowingly makes a false or misleading statement or representation in a declaration made under subsection 12.3(4) is guilty of an offence.

"Same, material change in circumstances, s. 12.3(6)

"(4.2) A person who wilfully fails to comply with subsection 12.3(6) is guilty of an offence."

We don't have to explain that. I think it's pretty self-explanatory.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: This is a consequential amendment to NDP motion 10 to remove the home renovation exemption. The government supports an exemption for home renovation work and therefore does not support this motion.

The Chair (Mr. Shafiq Qaadri): We'll now proceed to consideration of section 8. We can actually vote, since no motions have been brought forward so far.

Those in favour of section 8, as is? Those opposed? Section 8 carries.

We'll now proceed to PC motion 26.

Mr. Robert Bailey: I move that the bill be amended by adding the following section:

"8.1 The act is amended by adding the following section:

"Named insurance system

"161.1(1) The board shall establish a named insurance system no later than January 1, 2010.

"Regulations

"(2) Subject to the approval of the Lieutenant Governor in Council, the board may make regulations governing the establishment and operation of a named insurance system."

This would bring in a named insurance system. I heard the minister, as late as last week and again this week, say that he would look at a named insurance system. This would enable us to move in that direction.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: Currently the bill, as introduced by the government, provides the WSIB with the regulation-making authority, subject to Lieutenant Governor in Council approval, to establish a system of verification in the construction industry. Although the regulatory power does not contain the term "named insurance," subject to Lieutenant Governor in Council approval, the board, through regulation, would be able to establish requirements for both employers and workers in the construction industry to assist the board in administering and enforcing the registration and payment obligations in the WSIA, as they apply to employers in the construction industry and their workers.

This PC motion stipulates a time frame by when the WSIB must establish a named insured system.

The intent of the government is to work with the WSIB and stakeholders to further explore how a named insured system for employers and workers may operate. By providing arbitrary deadlines as to when a named insurance system must be established, this motion would likely impose on the construction industry requirements and obligations that they do not support and may be

highly problematic. This government supports working with stakeholders to find solutions that work for everyone. Therefore, we oppose this motion.

The Chair (Mr. Shafiq Qaadri): Any further comments? We'll then proceed to consideration of NDP motion 27.

Mr. Paul Miller: I move that subsection 182.1(1) of the Workplace Safety and Insurance Act, 1997, as set out in section 9 of the bill, be struck out and the following substituted:

"Voluntary pre-registration

"182.1(1) Before January 1, 2010, the following persons may make and file with the board a declaration in a form approved by the board, in order to allow the board to prepare for the implementation of sections 12.2 and 12.3:

"1. Every person who expects to retain, after December 31, 2009, an independent operator who carries on business in construction, unless the person is already registered with the board.

"2. Every person who expects to retain, after December 31, 2009, a sole proprietor who carries on business in construction, unless the person is already registered with the board.

"3. Every person who expects to retain, after December 31, 2009, a partnership that carries on business in construction and does not have any workers other than partners of the partnership, unless the person is already registered with the board."

Explanation: It is our position that the bill should be implemented far sooner than the 2012 deadline. We have put in specific dates for when the stages of this implementation should happen.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: This motion speaks to the timing of the implementation of the bill and also to who is responsible for paying premiums and registering with the board.

To address the issue surrounding the timing of implementation, committee members need to realize that implementing a mandatory coverage system in construction is a large task for the WSIB to undertake. As a result of the time required for the implementation, proclamation of the pre-registration provision would occur approximately two years after it receives royal assent, allowing the WSIB to make the technological changes required to its systems. Once systems are up and running, the payment and clearance certificate obligations would come into effect one year after the proclamation, allowing the WSIB one year to register all those who fall under the proposed requirements. In short, if passed, the earliest the legislation would be fully implemented is 2012. The WSIB would be required to develop new policies and practices that need to be consulted on. We'll need to undertake system and administrative changes to register approximately 90,000 new accounts. This represents an increase of about 40% over the current total of 230,000 accounts. In addition, this time frame is required to ensure that the initiative can be smoothly implemented.

For these reasons, the government does not support the motion.

The Chair (Mr. Shafiq Qaadri): Mr. Miller, any comments?

Mr. Paul Miller: As far as the 2012 situation goes, this bill has been rushed through, needless to say, and a lot of people didn't get to speak on it throughout the province. All of these discussions you're going to have later and regulation changes and implementation by the Lieutenant Governor in Council and things like this should have been worked out before. We had three years to do it. This has been rushed through. We're not happy with that. Because of our situation, we have supported some aspects of the bill, but we'd like to see changes that aren't happening. Once again, we think that it was a little unfair.

The Chair (Mr. Shafiq Qaadri): Any further comments on NDP motion 27? Then we'll proceed to NDP motion 28.

Mr. Paul Miller: I move that subsection 182.1(2) of the Workplace Safety and Insurance Act, 1997, as set out in section 9, be struck out.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: This is a consequential amendment to the NDP motion number 10 to remove the home renovation exemption. The government supports an exemption for home renovation work and therefore does not support this motion.

The Chair (Mr. Shafiq Qaadri): Are there any further comments? No. Vote deferred.

We'll then proceed to actually vote on section 10, for which, as I mentioned earlier to you, Mr. Miller, no motions have been received. Those in favour of section 10, as is? Those opposed? Section 10 is carried.

We'll proceed now to government motion 29.

Mr. Vic Dhillon: I move that section 11 of the bill be amended by adding the following subsection:

"(0.1) Clause 183 (1)(a) of the act is repealed and the following substituted:

"(a) prescribing anything that must or may be prescribed under this act other than anything in respect of which the act expressly permits the Lieutenant Governor in Council to make a regulation;"

This is a consequential amendment to the regulatory power in the WSIA to include the regulatory power that provides for an exemption for executive officers of corporations and partners in partnerships, if the prescribed conditions are met.

The Chair (Mr. Shafiq Qaadri): Comments? Seeing none, we'll proceed to NDP motion 30.

Mr. Paul Miller: I move that subsections 12(2) and (3) of the bill be struck out and the following substituted:

"(2) Section 9 comes into force on January 1, 2009.

"Same

"(3) Sections 1 to 8, 10 and 11 come into force on January 1, 2010."

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: This motion relates to the timing of the implementation of the bill and would have the effect of the full mandatory coverage scheme coming into effect January 1, 2010.

To address the issues surrounding the timing of the implementation, committee members need to realize that implementing a mandatory coverage system in construction is a large task for the WSIB to undertake. As a result of the time required for implementation, proclamation of the pre-registration provision would occur approximately two years after it receives royal assent, allowing the WSIB to make the technological changes required to its systems. Once the systems are up and running, the payment and clearance certificate obligations would come into effect one year after proclamation, allowing the WSIB one year to register all those who fall under the proposed requirements. In short, if passed, the earliest the legislation would be fully implemented is 2012. The WSIB would be required to develop new policies and practices that need to be consulted on and will need to undertake system and administrative changes to register approximately 90,000 new accounts. This represents an increase of about 40% over the current total of 230,000 accounts. In addition, this time frame is required to ensure that the initiative can be smoothly implemented.

Therefore, the government does not support this motion.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we will now proceed to vote on section 13, for which no amendments have so far been received.

Those in favour of section 13, as is? Those opposed? Carried.

We will now proceed to the consideration of all the motions individually—or if groups can be had, for example, with the same vote, if that's the will of the committee

We'll start with PC motion 2.

Mr. Paul Miller: Can we please have all of these recorded?

The Chair (Mr. Shafiq Qaadri): These are all recorded.

PC motion 2.

Ayes

Bailey, Scott.

Navs

Broten, Dhillon, Jaczek, Levac, Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): I declare PC motion 2 defeated.

We'll proceed to consider PC motion 4.

Ayes

Bailey, Scott.

Nays

Broten, Dhillon, Jaczek, Levac, Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 4 is defeated.

We'll now consider PC motion 5.

Ayes

Bailey, Scott.

Nays

Broten, Dhillon, Jaczek, Levac, Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated. We'll now consider PC motion 7.

Ayes

Bailey, Scott.

Nays

Broten, Dhillon, Jaczek, Levac, Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated. NDP motion 8.

Ayes

Miller.

Nays

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

We'll now proceed to consider the long-awaited and ever-deferred enabling motion, government motion 9.

Ayes

Broten, Dhillon, Jaczek, Levac, Ramal.

Nays

Bailey, Miller, Scott.

The Chair (Mr. Shafiq Qaadri): Carried.

We'll now proceed to backtrack with government motion 1.

Ayes

Broten, Dhillon, Jaczek, Levac, Ramal.

Navs

Miller.

The Chair (Mr. Shafiq Qaadri): Carried.

Government motion 3.

1540

Aves

Broten, Dhillon, Jaczek, Levac, Ramal.

Navs

Miller.

The Chair (Mr. Shafiq Qaadri): Carried.

Government motion 6.

Ayes

Broten, Dhillon, Jaczek, Levac, Ramal.

Nays

Miller.

The Chair (Mr. Shafiq Qaadri): Carried.

We'll now consider NDP motion 10. If it be the will of the committee, may we consider NDP motions 10 to 15 simultaneously?

Mr. Paul Miller: No. I prefer them individually, please.

The Chair (Mr. Shafiq Qaadri): NDP motion 10.

Ayes

Miller.

Nays

Bailey, Broten, Dhillon, Jaczek, Levac, Ramal, Scott.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 11.

Ayes

Miller.

Nays

Bailey, Broten, Dhillon, Jaczek, Levac, Ramal, Scott.

The Chair (Mr. Shafiq Qaadri): Lost.

NDP motion 12.

Ayes

Miller.

Navs

Bailey, Broten, Dhillon, Jaczek, Levac, Ramal, Scott.

The Chair (Mr. Shafiq Qaadri): Lost.

NDP motion 13.

Aves

Miller.

Nays

Bailey, Broten, Dhillon, Jaczek, Levac, Ramal, Scott.

The Chair (Mr. Shafiq Qaadri): Defeated. NDP motion 14.

Ayes

Miller.

Navs

Bailey, Broten, Dhillon, Jaczek, Levac, Ramal, Scott.

The Chair (Mr. Shafiq Qaadri): Lost. NDP motion 15.

Ayes

Miller.

Nays

Bailey, Broten, Dhillon, Jaczek, Levac, Ramal, Scott.

The Chair (Mr. Shafiq Qaadri): Defeated. Government motion 16.

Ayes

Broten, Dhillon, Jaczek, Levac, Ramal.

Navs

Miller.

The Chair (Mr. Shafiq Qaadri): Motion 16 carried. NDP motion 17.

Ayes

Miller.

Nays

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost.

NDP motion 18.

Ayes

Miller.

Navs

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated. NDP motion 19.

Ayes

Miller.

Navs

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost.

Shall section 4, as amended, carry? This is a recorded vote as well, Mr. Miller?

Mr. Paul Miller: Absolutely.

Ayes

Broten, Dhillon, Jaczek, Levac, Ramal.

Navs

Bailey, Miller, Scott.

The Chair (Mr. Shafiq Qaadri): Carried. NDP motion 20.

Ayes

Miller.

Nays

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost. NDP motion 21.

Ayes

Miller.

Nays

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost. NDP motion 22.

Ayes

Miller.

Navs

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost. NDP motion 23.

Ayes

Miller.

Nays

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost. NDP motion 24.

Ayes

Miller.

Navs

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost.

Shall section 5 carry, as is?

Ayes

Broten, Dhillon, Jaczek, Levac, Ramal.

Nays

Miller.

The Chair (Mr. Shafiq Qaadri): Carried.

We've already voted on section 6, as you'll recall We'll now proceed to section 7, NDP motion 25.

Ayes

Miller.

Nays

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Lost.

Shall section 7, as is, carry?

Ayes

Broten, Dhillon, Jaczek, Levac, Ramal.

Nays

Miller.

The Chair (Mr. Shafiq Qaadri): Carried.

Section 8 has already been voted on.

PC motion 26.

Ayes

Bailey, Scott.

Navs

Broten, Dhillon, Jaczek, Levac, Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 27.

Ayes

Miller.

Navs

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 28.

Aves

Miller.

Navs

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 9, as is, carry?

Ayes

Broten, Dhillon, Jaczek, Levac, Ramal.

Nays

Miller.

The Chair (Mr. Shafiq Qaadri): Carried.

Section 10 has already been voted upon.

Section 11: government motion 29.

Ayes

Broten, Dhillon, Jaczek, Levac, Ramal.

Nays

Bailey, Miller, Scott.

The Chair (Mr. Shafiq Qaadri): Carried.

Shall section 11, as amended, carry?

Ayes

Broten, Dhillon, Jaczek, Levac, Ramal.

Nays

Bailey, Miller, Scott.

The Chair (Mr. Shafiq Qaadri): Carried.

Section 12: NDP motion 30.

Ayes

Miller.

Nays

Broten, Dhillon, Jaczek, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 12, as is, carry?

Ayes

Broten, Dhillon, Jaczek, Levac, Ramal.

Nays

Bailey, Miller, Scott.

The Chair (Mr. Shafiq Qaadri): Carried.

Shall the title of the bill carry? Carried.

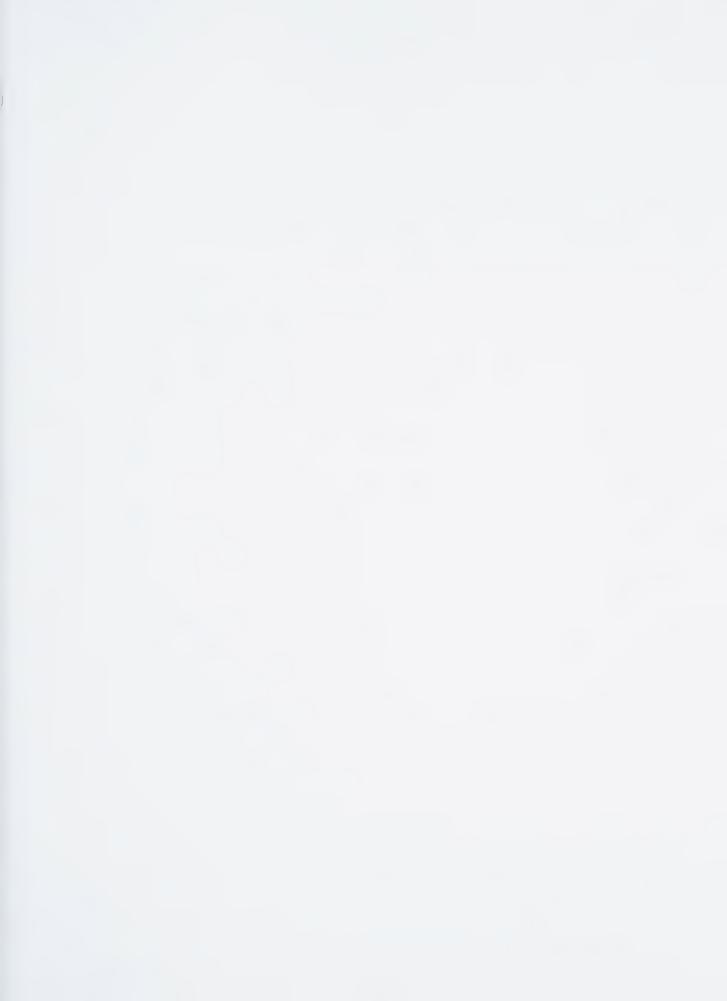
Shall Bill 119, as amended, carry? A recorded vote on that?

Mr. Paul Miller: No.

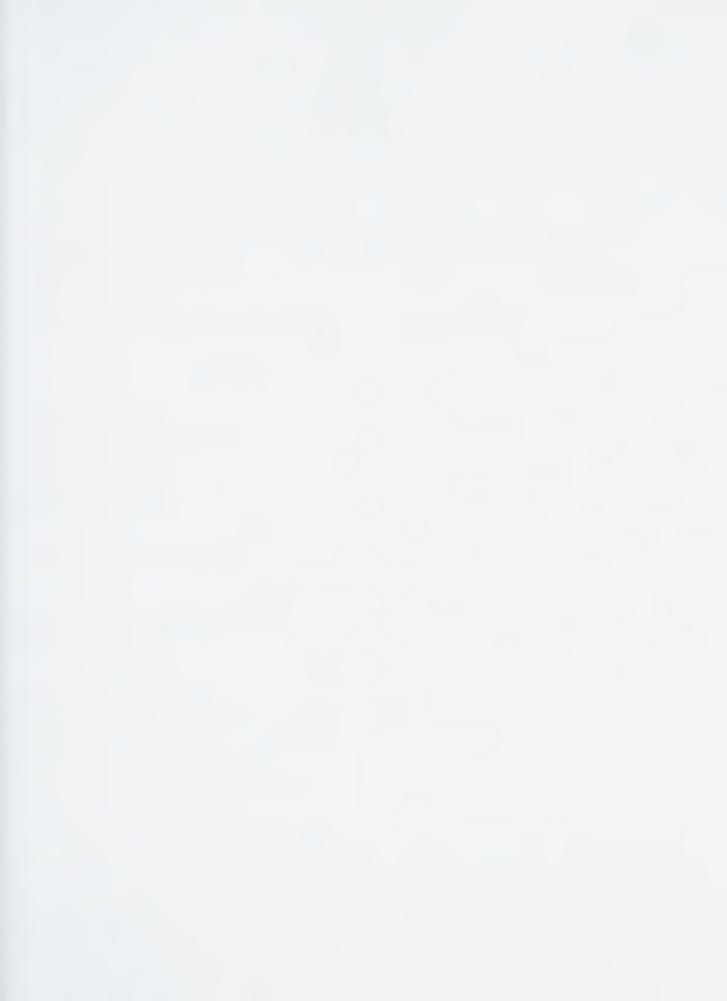
The Chair (Mr. Shafiq Qaadri): Shall I report the bill, as amended, to the House? Carried.

Is there any further business before this committee today? Committee adjourned.

The committee adjourned at 1547.







CONTENTS

Monday 24 November 2008

Workplace Safety and Insurance Amendment Act, 2008, Bill 119, Mr. Fonseca /	
Loi de 2008 modifiant la Loi sur la sécurité professionnelle et l'assurance contre	
les accidents du travail, projet de loi 119, M. Fonseca	SP-461

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke–Lakeshore L)
Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)
Ms. Cheri DiNovo (Parkdale–High Park ND)
Ms. Helena Jaczek (Oak Ridges–Markham L)
Mr. Dave Levac (Brant L)
Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)
Mr. Khalil Ramal (London–Fanshawe L)
Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)
Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Mr. Robert Bailey (Sarnia-Lambton PC)
Mr. Paul Miller (Hamilton East-Stoney Creek ND)

Clerk / Greffier Mr. Katch Koch

Staff / Personnel

Ms. Catherine Macnaughton, legislative counsel



SP-19



Govern.
Publicatio.

ISSN 1710-9477



Legislative Assembly of Ontario

First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Monday 1 December 2008

Journal des débats (Hansard)

Lundi 1^{er} décembre 2008

Standing Committee on Social Policy

Child and Family Services Statute Law Amendment Act, 2008 Comité permanent de la politique sociale

Loi de 2008 modifiant des lois en ce qui concerne les services à l'enfance et à la famille

Chair: Shafiq Qaadri Clerk: Katch Koch Président : Shafiq Qaadri Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 1 December 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 1er décembre 2008

The committee met at 1430 in committee room 1

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, I'd like to respectfully call the meeting to order. As you know, we're the Standing Committee on Social Policy, meeting to consider Bill 103, An Act to amend the Child and Family Services Act and to make amendments to other Acts.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): The first order of business is having the previous subcommittee report entered into the written record, for which I'll call upon Mr. Dave Levac.

- Mr. Dave Levac: This is a report from the subcommittee. Your subcommittee on committee business met on Friday, November 21, 2008, to consider the method of proceeding on Bill 103, An Act to amend the Child and Family Services Act and to make amendments to other Acts, and recommends the following:
- (1) That the committee meet for the purpose of holding public hearings in Toronto on Monday, December 1, 2008
- (2) That the clerk of the committee, with the authority of the Chair, prepare and implement an advertisement strategy for the major daily newspapers; and post the information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.
- (3) That interested people who wish to be considered to make an oral presentation on the bill should contact the clerk of the committee by Friday, November 28, 2008, at 12 noon.
- (4) That if a selection process is required, the clerk of the committee provide a list of all interested presenters to the subcommittee following the deadline for requests.
- (5) That the minister be invited to appear before the committee as the first witness.
- (6) That the length of the presentation for witnesses be 20 minutes for groups and 10 minutes for individuals.
- (7) That the deadline for written submissions be Tuesday, December 2, 2008, at 5 p.m.
- (8) That the research officer provide the committee with a summary of the presentations and written submissions received by Wednesday, December 3, 2008, at 5 p.m.
- (9) That the committee meet for clause-by-clause consideration of the bill on Monday, December 8, 2008.

(10) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report from the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

That is the report, Mr. Chairman.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Levac. Are there any questions or comments?

Mrs. Julia Munro: Yes, I just have one question with regard to the dates there given in points (8) and (9). I believe that we had agreed on a date for the amendments.

Mr. Khalil Ramal: If you don't mind, could you repeat—

The Chair (Mr. Shafiq Qaadri): If you could just repeat what you said, Mrs. Munro, maybe with the microphone—

Mrs. Julia Munro: Certainly. The deadlines that are given in points (8) and (9)—I believe that we also had agreement on the submission for amendments.

Ms. Laurel C. Broten: In response to Mrs. Munro's comment, my recollection is the same, that we had set a parameter by which all parties would submit their recommendations for clause-by-clause—if the research was coming in by the Wednesday—by Thursday at 5 o'clock. That's my recollection.

Mrs. Julia Munro: I believe that to be the same.

Mr. Dave Levac: I would move that as a friendly amendment to the subcommittee report that I just read.

The Chair (Mr. Shafiq Qaadri): I accept that. Could I just have some clarification of what we're saying, then? Ms. Broten, could you actually repeat it? We'll officially record it.

Ms. Laurel C. Broten: That we would add in a new number (9) and that all parties would be required to provide their written recommendations with respect to any amendments to be received by Thursday, December 4 at 5 p.m.

The Chair (Mr. Shafiq Qaadri): Is that suitable to the committee? That's fine.

Are there any further questions or comments to discuss?

Ms. Andrea Horwath: Mr. Chair, I don't think you actually asked with enough time to speak. I wasn't able to attend the subcommittee meeting, as members would know. I'm just wondering, why is it Thursday and why not Friday for the amendments?

Ms. Laurel C. Broten: The discussions that ensued at subcommittee were that having one day allowed a com-

plete business day and a bit for the parties to examine each other's proposed clause-by-clause amendments. If it was the end of business on the Friday and we were meeting for clause-by-clause at 2:30 on the Monday, it only gave a half day for review of those proposed amendments.

Ms. Andrea Horwath: So your suggestion is by 5 o'clock on the Thursday—

Ms. Laurel C. Broten: Thursday, December 4, giving each party the Friday and the morning of the Monday to review each other's proposed amendments.

Ms. Andrea Horwath: Fine.

The Chair (Mr. Shafiq Qaadri): Any further questions or comments? I seek permission from the committee to adopt the minutes of the subcommittee meeting, as amended. Those in favour? Thank you.

CHILD AND FAMILY SERVICES STATUTE LAW AMENDMENT ACT, 2008

LOI DE 2008 MODIFIANT DES LOIS EN CE QUI CONCERNE LES SERVICES À L'ENFANCE ET À LA FAMILLE

Consideration of Bill 103, An Act to amend the Child and Family Services Act and to make amendments to other Acts / Projet de loi 103, Loi modifiant la Loi sur les services à l'enfance et à la famille et apportant des modifications à d'autres lois.

MINISTRY OF CHILDREN AND YOUTH SERVICES

The Chair (Mr. Shafiq Qaadri): We'll now proceed to the substantive presentations. For the information of all our committee presenters, people will have either 10 or 20 minutes in which to present, depending upon whether they are presenting on behalf of a specific organization or in their individual capacity. The time limits will be strictly enforced.

Now we'll move to our first presenter. The committee is privileged to have, and welcomes, the Honourable Deb Matthews, the Minister of Children and Youth Services. Welcome, Minister Matthews, and as you are seated, we'll offer you 20 minutes in which to make your combined presentation, and of course any questions or comments and cross-examinations remaining in those 20 minutes will be distributed evenly amongst the parties. We'll let you begin now.

Hon. Deborah Matthews: I have to tell you that this is the first time that I have sat in this particular seat, but I've spent many happy hours as a member of different committees.

I'm very pleased to be here today to speak in support of Bill 103, the Child and Family Services Statute Law Amendment Act, 2008, which I introduced on September 29. This bill brings together two existing pieces of legislation that deal with Ontario's youth justice system: The first is the Child and Family Services Act, which

governs young offenders between the ages of 12 and 15; the second is the Ministry of Correctional Services Act, which covers young people aged 16 and 17 when an offence is committed.

Bill 103 is designed to create a single legislative framework for all youth in conflict with the law between the ages of 12 and 17. It will complete our efforts to create a single, dedicated youth justice system in Ontario. From the outset, our goal as a government in establishing this system has been twofold.

First, we are always aware that the safety and security of our communities must come first, particularly when it comes to those who are in conflict with the law, no matter what their age. For this reason, we're using a number of tools, including this legislation, to ensure that young people who commit criminal offences will face the consequences of their actions. Indeed, several of the amendments outlined in Bill 103 actually make older youth more accountable.

For example, our proposed legislation provides decision-makers with greater discretion in determining the level of detention for youth in custody. This is in line with the proposal from the federal government to broaden the possibility to detain a young person who represents a danger to the public. Bill 103 will also give service providers additional powers to deal with contraband items and to protect all staff and clients at youth service facilities.

Our second goal with this legislation and the transformation of our youth justice system is to create a justice system that provides young people with supports and services that will challenge them to reject crime and violence and become productive members of our society. As part of this, we've constructed, and are continuing to build, new facilities that will house youth in conflict with the law and are designed to specifically meet their unique needs. We've put in place a wide range of alternative-tocustody programs that are helping young people to make the right choice, because we know that when we help to steer a young person away from making the wrong choices, we lessen the likelihood that they will reoffend. And every time we prevent a young person from reoffending, we've not only prevented a crime, but we've also put them on the path to fulfilling their dreams and strengthening our society.

This legislation strikes the right balance between the need to provide rehabilitation for young people in conflict with the law and the obligation to protect our society from those who would persist in committing criminal activities.

1440

After studying this issue of youth crime and seeking the advice of experts in this field, we know that youth between the ages of 12 and 17 in custody or detention have very different needs from adults in custody. In the past, many young people who had been found guilty and sentenced to time in custody were held in special wings of existing adult institutions. Clearly, this situation was not in the best interests of the young people involved, and

it certainly was not helping the youth justice system workers in their efforts to persuade these young people to turn away from crime.

That's why our government will remove all young people in custody between the ages of 12 and 17 from adult correctional institutions by April 1 of next year. To meet this goal, we're funding the construction of new youth justice centres in communities across the province. These are state-of-the-art facilities offering on-site education and rehabilitation programs. These programs are crucial because they offer opportunities to young people to learn new skills, develop their minds and bodies and become productive members of our society.

Last July, a number of my colleagues were on hand for the official opening of the new youth justice centre, the Donald Doucet centre in Sault Ste. Marie. This facility is named after Senior Constable Donald Doucet, a veteran of the Sault Ste. Marie police department who served as a role model and mentor for young people in the community. Tragically, he died in the line of duty in May 2006.

The centre provides secure custody for 16 young men and women who are in conflict with the law. It offers educational and rehabilitation facilities that are provided by a dedicated team of 30 staff and support workers. During the construction phase, the new centre provided more than 130 jobs and, by using local resources, will provide both short- and long-term financial benefits to the community.

At this time, similar facilities are being built in Brampton, Thunder Bay and Fort Frances, and the William E. Hay youth justice centre in Ottawa has been expanded to meet the needs of youth in eastern Ontario. For many young people, these youth justice facilities represent their best chance of breaking the cycle of violence that has characterized their lives since childhood. These facilities provide an environment where young people are expected to live by a strict set of rules and where they will face the consequences if they fail to live up to them. At the same time, they're treated with dignity and respect by the staff, who help them learn new skills and offer guidance on how they can turn their lives around to help themselves, their families and their communities.

Families play a major role in the rehabilitation process, and by locating these youth justice facilities in communities across the province, family members can stay in closer contact with young people in custody and help ease their way back into a more normal life once they are released. That's an important consideration when it comes to helping to prevent young offenders from possibly slipping back into the patterns that originally brought them into conflict with the law.

Our young people are our province's most important resource. No matter where they live, they must be given opportunities to achieve their goals and to become the leaders of a new generation. Our government is committed to doing all we can to help make this happen. We've implemented the Ontario child benefit to provide support for low-income families with children. When fully implemented in 2011, more than 600,000 low-income families will be eligible to receive as much as \$1,100 a year for each child. It could be used to meet child care costs or to help ensure that children are able to take part in after-school or weekend activities.

The youth opportunities strategy offers thousands of young people across the province the chance to get on-the-job training in a wide range of careers, including law enforcement. At a time when our long-term economic future will require thousands of skilled workers to replace aging baby boomers, this strategy benefits the young trainee right now and will provide further benefits to our economy in the time to come.

Members of the committee, we know that the vast majority of Ontario's youth aged 12 to 17 will never come into conflict with the law, but for those who do, we are taking the steps to ensure that they will face the consequences of their actions. At the same time, we're offering support and training to those young people who genuinely wish to move forward with their lives and become productive citizens. For those who pose a threat to our society, we're taking action to ensure they cannot harm themselves or others. But to make our efforts in these areas as effective as possible, we must complete the task of creating a separate, stand-alone youth justice system in this province.

Thank you, Chair.

The Chair (Mr. Shafiq Qaadri): Thank you, Minister Matthews. You've left a generous amount of time for each party, about three to four minutes, beginning with the PC side. Mrs. Munro.

Mrs. Julia Munro: I wanted to just ask you a question that comes out of the Roots of Youth Violence material that we received a couple of weeks ago. In there, the authors suggest that out of several—but the first two they mention are poverty and racism. I wondered whether or not, in the distribution of these facilities across the province, you have taken into consideration either of those two principles of Roots of Youth Violence.

Hon. Deborah Matthews: I wonder if you could expand on that question a little bit. I'm not sure I get it.

Mrs. Julia Munro: You mentioned the size of these facilities and things like that. I'm just asking whether or not those principles have been part of the decision in determining where your facilities might be.

Hon. Deborah Matthews: I do have people from my ministry here if you want to hear more, but let me give you an example of where we really have tried to build facilities that create a space that will facilitate the rehabilitation of kids.

The facility in Fort Frances is designed especially for aboriginal kids. The design was developed in consultation with the aboriginal community. The design is quite beautiful. There's a teepee, so there's a circle place where kids in that facility will be able to build on their traditions from their community. That is an example of how we really are trying to build facilities that respond to the challenges that kids in custody are facing.

Mrs. Julia Munro: You mentioned the one in Fort Frances. One of the things that I would ask you to comment on is the question of what kind of specifics in terms of urban youth violence you would have considered in making those locations available for these facilities.

Hon. Deborah Matthews: I want to take this opportunity to thank Roy McMurtry and Alvin Curling for their truly remarkable piece of work. I actually met with them this morning to talk about moving the issues that they raised forward. I think they have made an enormous contribution. One of the things, of course, that they say is that there are several intertwined roots of youth violence, one of those being poverty, one of those being racism.

Our ministry is very committed—in fact, internationally recognized as a youth justice system that really responds to the research that is available on this topic.

One of the things that we are doing to respond to some concerns is, as we recruit the staff at the Roy McMurtry centre in Brampton, we will be really aware of the diversity of our staff—

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there. Thank you, Mrs. Munro.

Ms. Horwath.

Ms. Andrea Horwath: I'd like the minister to outline the consultation process that she undertook with youth in the preparation of this particular piece of legislation.

Hon. Deborah Matthews: This particular piece of legislation, as I think everyone on the committee is aware, is largely an administrative piece of legislation. It brings together two pieces of legislation so that all youth in this province between the ages of 12 and 17 are brought in under one piece of legislation.

We do consult with youth on aspects of our programming. There was an issue about some gender-specific programming that we invited kids to participate in, in terms of what programs are offered. We do engage the youth in the facilities to tell us what skills they would like to develop.

When it comes to this particular piece of legislation, which is largely administrative in nature, we did not specifically consult on it.

1450

Ms. Andrea Horwath: Is there some type of road map that you have or some kind of document that leads you to make a decision on which pieces of legislation you think you should have a voice on and which pieces you don't? How do you make these judgments or these decisions around when it's appropriate to consult youth in the legislation that you're drafting that has to do with them, or is the answer never? I'm just—

Hon. Deborah Matthews: No, the answer definitely is not never. I am a huge advocate of youth engagement and listening to the voices of the people who are most directly affected by the legislation. For example, the work that we're doing on crown wards, who are widely overrepresented in our youth justice facilities, is very much informed by engagement of kids who are, in fact, wards of the crown. So we are conscious of the importance of engaging youth. I think we can do a lot

better. It's one of the things that we simply must continue to do more of—consulting with youth—and it's an area that my ministry is very interested in.

Ms. Andrea Horwath: Can I ask to the minister, at what point in the process of drafting this legislation that you call administrative did you consult with the child and youth advocate's office?

Hon. Deborah Matthews: The child and youth advocate—maybe I could have a little help on this. I think it was in the summertime that the advocate was briefed—

The Chair (Mr. Shafiq Qaadri): You have about 30 seconds.

Hon. Deborah Matthews: Okay, sorry. The advocate has been briefed twice. The—

Ms. Andrea Horwath: Mr. Chairman, if I can, I was asking specifically at what point in the process of the drafting of this legislation did the minister confer with, consult with or bring in for consultation the child advocate's office.

Hon. Deborah Matthews: I do not have that information right now, but I will undertake to get it to you.

Ms. Andrea Horwath: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Horwath. To the government side. Ms. Broten.

Ms. Laurel C. Broten: I think that on our side of the table, perhaps, we'll try to help the committee get back on the timeliness of our long schedule today and we will not ask the minister any questions other than say thank you for attending today.

The Chair (Mr. Shafiq Qaadri): Thank you as well, Minister Matthews, for your presence and deputation.

OFFICE OF THE PROVINCIAL ADVOCATE FOR CHILDREN AND YOUTH

The Chair (Mr. Shafiq Qaadri): We'll now move to our next presenter, who is Mr. Irwin Elman from the Office of the Provincial Advocate for Children and Youth. Welcome, Mr. Elman. As you've seen, the protocol is you have 20 minutes in which to make your presentation, beginning now.

Mr. Irwin Elman: Thank you for having me here. I am going to give my submission on Bill 103. I'm going to read some of my remarks, because I have a little time and I don't want to ramble, and I think what I have to say may be of importance to you.

First of all, let me make a few general comments. It refers directly to the last question that was asked. The first is that Bill 103 was presented to our office only as a piece of legislation created to address "housekeeping issues," and that was by the ministry. On the face of it, that something like this would be required seemed logical. After all, there are two ministries, two pieces of legislation and two sets of policies involved in the transfer of all youth justice services to the Ministry of Children and Youth Services. However, as I read Bill 103 closely, I realized that the proposed changes were very much more than housekeeping.

On the subject of reading the bill: I must say it took a while before I had a chance to do so. The first reading of the bill was September 29, 2008. I attended a briefing with senior representatives of the ministry on September 30, and I received what is called a presentation deck—I have it with me. A presentation deck, for those who are unfamiliar, is a copy of a PowerPoint that talks about the bill. Some have said that our office was consulted about the bill. In fact, in the PowerPoint presentation that I received, our office's name was there as being consulted. I was never consulted. I checked with the two advocates previous to me and they were never consulted. I think the ministry would agree that, to the extent this is true, that perhaps what we could figure out is the only consultation any member of our office recalled was participating in a committee back in 2003 or 2004 that focused on secure isolation. I think the ministry would agree that if this was the extent of their consultation with us, it wasn't substantial. Nevertheless, I want to make it clear that the forerunner to our office, the Office of Child and Family Service Advocacy, did not then nor does our office now support the ministry's approach to the use of secure isolation for young people over the age of 16, but I'll get back to that later.

During the initial briefing on Bill 103, I requested a copy of the bill so we could see exactly what the government was proposing. This request was agreed to, but we never received a copy of the bill from the ministry. We did manage to obtain one and, as the minister knows, I was astonished to discover that not only did Bill 103 propose changes to the CFSA, it also proposed changes to what we call our act, the Provincial Advocate for Children and Youth Act.

First of all, it is not polite to change legislation with respect to an office of the Legislature without the office's consent. Secondly, what might seem like minor changes to outsiders may be major to those who work under the legislation or those whom the legislation affects. Thirdly, sometimes changes that are presented as minor aren't really minor at all.

When I was briefed—I want to make this clear because it's a very important point—I was not told that the legislation that governs my office was going to be amended. Not one word. It amounted, to me, to somebody coming into my house, rearranging the furniture, even if they thought it was for the best, and not telling me, not gaining my permission, not telling me even after the fact. I'm going to come home, see that my furniture was changed and say, "Oh, there it goes. It was just minor housekeeping." It's not respectful and it's not okay.

I would like to turn to some of the proposed amendments to the bill, and I'm going to get back to our act in a minute. Amendments that are masquerading as house-keeping but are really quite serious are subsections 93(2) and (5), which relate to secure detention and open detention. For most of the life of the CFSA and youth justice, the young offenders section of the Ministry of Correctional Services Act—the default position for

young people who were denied bail was that they were to be held in open detention unless certain criteria were met. This is what the law said, and this is what happened for youth who were being dealt with under the CFSA. I want to make sure it is understood that what was said about open detention in both pieces of legislation was identical. Unfortunately, the practice was much different. This difference was a focus of attention for the judiciary—the advocate's office, and ended up in a Toronto Youth Assessment Centre inquest relating to a young person by the name of D. M.

There are now additional provisions that make it even more difficult for a young person to be placed in open detention. We have not been made aware of any reason that this would be necessary, either for youth under 16 or the older youth to whom the Ministry of Correctional Services Act previously applied. This is why I say this amendment is not simply about housekeeping.

The inspections and investigations, subsection 98.1(2): We support this amendment. I think it's important to make clear that the ministry should appoint a person to conduct an investigation in any youth justice setting, whether it is one that is directly operated by the government or a facility that is privately operated by a transfer payment agency.

Having said this, I think the ministry needs to go further. When young people make allegations of harm or mistreatment in a youth justice facility, indeed in any residence or resource for children or young people, we need to be assured that the matter was taken seriously and fully investigated and that if allegations were founded, steps have been taken to protect the young person who raised the complaint and all other young people who might be affected.

In July this year, my office received a call from a young person who allegedly had been assaulted by guards at a youth justice facility. The advocates assigned requested that the matter be investigated and that our office receive a copy of the investigation report and photographs of injuries. This material has been repeatedly requested for over four months, and we still have not received it. Now, it could be that the investigation into this case was adequate and thorough, but because of the stonewalling, it looks like there is something to hide. This characterization may be unfair, but it's often the end result when processes and investigations are not transparent.

1500

Earlier this year, another young person died in custody. I think it is important to have a full account of what happened in that situation. One way of finding out what happened is through an investigation report. The second is through an inquest. It often takes many months for an inquest. I do not think we should have to wait that long to discover what the matter was and that it is fully investigated. With the amendment to the CFSA that is in question now, I would request that members of the committee consider adding a clause that empowers the provincial advocate to receive any investigation report upon his or her request.

I have a number of other things to comment on, in particular secure isolation. I have a paper that I will leave for the committee, but I want to talk about our act before my time is up, and leave time for questions.

Bill 103 proposes changes to the act that mandates the work of the provincial advocate's office. I strongly believe that any changes to this legislation need to be approved by the office. However, given that the act has been opened as a result of Bill 103, I would suggest two amendments that could be appropriate. We can make these amendments now. If the committee feels it is not within their scope, they can carve off the piece of Bill 103 that relates to our office and create another act that amends our office. But I don't think this committee should make amendments to our act without fully consulting with our office. I think it's improper.

The first amendment I would suggest is the definition of "client group." The bill proposes to remove the term "young people in custody" from the Provincial Advocate for Children and Youth Act. My office prefers to have special emphasis placed on the fact that young people involved in the youth justice system are entitled to assistance from our office. We believe that the problem with the amendment could be rectified if the proposed amendment, 28(2) were to include "young people who are being dealt with under the Youth Criminal Justice Act," in addition to what is currently being proposed.

In September of this year, I met with two assistant deputy ministers and requested, among other things, a list of all the licensed group homes in the province. I still have not received this list, nor have I been able to obtain child fatality death reports, investigation reports or serious occurrence reports. As I have already mentioned, there was one investigation report I have asked for repeatedly over the past four months. Unfortunately, I have had to take the step of pursuing this matter in court. This will cost the taxpayers money, but more than that, it comes at a risk to the young person, who advised that retaliation had been threatened in the event the young person chose to pursue the request for the investigation report. This young person chose to go ahead in spite of the risk.

I am impressed by the bravery of this youth, but I think we all know there was no need for this situation to go this far. The ability of the provincial advocate to get answers in response to a concern about the safety and well-being of young people should not depend on the courage of the young person who makes a complaint or the depth of taxpayers' pockets.

I want to talk about process and content, because I fully believe and have explained to the minister, and perhaps to others here, that process is often as important as content. For the last few months, I have been through a Snakes and Ladders game with the ministry, parrying and thrusting, trying to get questions answered, and not only not getting information I've requested, but simply not getting answers about what information, from their perspective, I am able to obtain. I am asking you to propose an amendment to the Provincial Advocate for

Children and Youth Act—it's in our brief—that will give us the right to information we need. I'm telling you this about Bill 103, as a committee, because it's not about our office and the ministry; I fully believe it's about the young people we're all concerned about.

I've been cautioned about making this argument, but I'm going to make it anyway. In my 25-plus years working in child welfare, I knew and learned full well that in families of abuse, silence and secrecy are hallmarks. I know from my practice and from the work we've done that if you break that silence and break that secrecy, you have a chance of helping young people who have been through horrific ordeals heal and fulfill the life plans they might be able to set for themselves—even begin to think they have some hope. What I'm offering this committee is to establish a process for both youth justice and child welfare that will allow that veil of secrecy, that culture of silence, to be lifted.

I would say to the minister, because I know the minister and the ministry are afraid to let the bad things out, that unless you let the bad things out, you can't allow the good things in. There will be—this is my experience—a balance between the good that comes out, the really good things that happen in child welfare, and the bad. But this game of trying to stonewall and obfuscate facts and prevent young people from speaking out and learning about the acts of violence that have happened against them has got to end, and I believe the committee has a chance to do that today. Thank you for hearing me.

The Chair (Mr. Shafiq Qaadri): Thank you. We have about two minutes or so per side, beginning with Ms. Horwath.

Ms. Andrea Horwath: I want to ask you a question about your suggested recommendations. Will you be providing those in writing, in terms of the opportunity for us to perhaps put amendments that reflect those suggestions?

Mr. Irwin Elman: Yes.

Ms. Andrea Horwath: That's great. The experience you've had—can I ask how long you have been the advocate, Mr. Elman?

Mr. Irwin Elman: Three and a half months.

Ms. Andrea Horwath: The minister was mentioning in scrum today that there are protocols that have to be put in place—something of that nature—in order to share information. Could you tell this committee whether you think there are protocols that need to be put in place around the sharing of information?

Mr. Irwin Elman: There are many people in the ministry, and I'm sure they need to figure out how to get me the information when I ask for it. That's the protocol that, in my opinion, needs to be put in place. I have been, and continue to be, respectful in my relations with all ministries in asking for information, but I don't believe there is anything more than telling me who the right person to ask is and telling me or providing me with the information I request—that's the protocol that needs to exist.

Ms. Andrea Horwath: In your three and a half months as the permanent child advocate for the province

of Ontario, would you say you have had a cooperative response from the ministry in your attempts to build this independent office and provide resources for young people and children?

Mr. Irwin Elman: I would say that, on the surface, for sure, we're building a relationship with members on all sides of the House in the Legislature and, I would say, struggling to build working relationships within the ministry itself. Has it been cooperative? It's hard to tell. I'm three and a half months in, and it's hard to tell what is smoke and mirrors and what isn't. I will continue to be who I am: I will continue to represent the young people and children I have been charged to represent, and I will be operating with integrity, respect, excellence and accountability. I expect that the ministry and the minister will do the same, and I have been holding them—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Horwath. We'll move to the government side. Ms. Broten.

Ms. Laurel C. Broten: I want to say, right at the outset, that I hear in the words you are using the voice of an advocate, and I commend you on that. I do want to say that I'm concerned about the characterization of the events that have transpired. I think that it's important, as legislators who are charged with ensuring that a variety of rights are protected and that we move forward in a thoughtful fashion, to put out the understanding and appreciation that the Information and Privacy Commissioner does have to be engaged, and has been engaged in the past, in discussions that are taking place.

I just want to confirm that it's my information that on November 5 a request was made for information from the ministry, and that the ministry has been working to compile that information, aligning with the privacy requirements of the YCJ and of FIPPA, and that you would also agree that it is critical that the privacy of the youth, who needs to be involved and to provide consent to the disclosure of that information, needs to be protected as we move forward.

Mr. Irwin Elman: Let me tell you that on July 24, we made the initial request for the investigation report I'm speaking about. I've already mentioned that we would never do so unless the young person suggested we do that. The ministry was well aware of that. Sometime after July 24, we received a response with an investigation summary report, which is really almost inconsequential. That was well before November 5. I can't tell you—oh, I could; it's in our briefing to the clerk—the number of e-mails, the number of letters, the number of phone calls, the number of protocol meetings that I went to.

I'm very angry because this involved a young person who was being hurt.

1510

Ms. Laurel C. Broten: Has this protocol been signed and agreed to at this point?

Mr. Irwin Elman: Let me speak to that. Before we got to the time when somebody said, "Well, now we can't give you the information until you meet about a protocol," I went on good faith to meet about a protocol.

I started asking the same questions: What is the information we're going to receive—

The Chair (Mr. Shafiq Qaadri): I need to intervene there, with respect.

Mrs. Munro.

Mrs. Julia Munro: I just want to pick up on this because I think all of us are absolutely shocked by the testimony that you've been able to provide us with today—as well as indicating to us last week that you felt it necessary to actually go to court. I say that particularly because the previous minister, on third reading of Bill 165, stated:

"We recognize that the independent advocate needs to be able to have the means by which to access children and youth and their records in order to provide appropriate advocacy....

"We carefully drafted the access-to-records provisions of the legislation in consultation with the Information and Privacy Commissioner to ensure that the privacy and other legal rights of the child are protected. The legislation provides the advocate with access to a child or youth's private records, provided that the child or youth provides consent."

This sounds to me as if a protocol should have been in there at the very beginning when you first started this position that you now have.

Finally, she said, "The discretion to determine the child or youth's capacity to provide consent rests with the advocate."

Is this how you see your job?

Mr. Irwin Elman: Of course it is. The issue around the protocol, to me, is that it's not my protocol. I will ask for information, and the ministry will need a protocol in order to find a way to get me the information, even—and I'm aware of this—to say, "We're not giving it to you."

What I want to tell you is that I hadn't got any answer, even when I went to the final protocol meeting. I did say we would test it without prejudice: "In good faith we'll use it, because that's something you need us to use in order to facilitate getting us information." We did use it many times over. We still haven't gotten any information. I guess that's what you're referring to—November 5. But we were asking for this information a long time past.

I would have believed that the ministry should have been able to answer a question over three or four months. If they need to develop a protocol now in figuring out how to answer the question, do it.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Elman, for your presence and testimony on behalf of the Office of the Provincial Advocate for Children and Youth.

DAVID WITZEL

The Chair (Mr. Shafiq Qaadri): We'll now move to our next presenter, who comes to us by way of teleconference, Mr. David Witzel. Mr. Witzel, are you there?

Mr. David Witzel: Yes, I am. Thank you for inviting

The Chair (Mr. Shafiq Qaadri): That's great. I just invite you to speak up. As you may know, you have 10 minutes in which to make your presentation. I invite you to begin now.

Mr. David Witzel: I wish to thank everybody for accepting me.

First of all, dealing with Bill 103—before I get into it, the provincial advocate has already complained about not having the authority to do what he wants to do. The government isn't listening to him. On top of that, I was in the justice policy committee when the formation of the provincial advocate was a done deal. The only thing was, the provincial advocate can review and make recommendations, but he can't do a thing about having anything done with teeth, like the Ombudsman's office, which many of us suggested should get this. But the government of the day doesn't feel like giving the Ombudsman that role, because the Ombudsman's office might be able to delve into stuff that the government doesn't want to become public.

There is no oversight at all. All of this stuff that we're talking about or are going to be talking about right now—there is absolutely too much secrecy. The children's aid society and the Catholic Children's Aid Society, along with the Ministry of Children and Youth Services—there's too much secrecy there. There are absolutely no checks and balances within the children's aid society for us, the public. I am talking to you as a sexually and physically abused adult male survivor of childhood abuse, so I do know where I'm coming from because I've had to deal with these people. I'm watching kids getting killed and abused with nobody doing anything with the children's aid, which might well be part of the problem, because they didn't, in the case of Jeffrey Baldwin, check the records to find out that in fact the people they gave him to had already been tried and convicted of murdering their own little child and their children were seized, and yet he was put in their care.

Where are the checks and balances there and why aren't the children's aid societies of Ontario being investigated by the police? I understand there are protocols. Well, that's nice. Protocols, to me, mean, "I'll cover your ass if you cover mine." Excuse the language, but that's the way it is. Now, that is not right. There should be more that comes out to the public.

I'm just reading here about different things that have been repealed. It says in section 2 that the definition of "provincial director" in the Child and Family Services Act is repealed. Well, that's nice. We then go to—let's see. Just bear with me, people. Yes, we go to subsection 5(2) where it says, "A provincial director may detain a young person." Let me ask you, how can a provincial director detain anybody if that post has been repealed? I can't get through that one. I don't understand that at all.

We'll also go down now to 8. Just please bear with me. I'm just trying to get there. Okay, here we go. Sorry about that, folks. We're on to subsection 8(3), down to (a) first: "may be opened by the service provider or a member of the service provider's staff in the young person's presence and may be inspected for articles prohibited by the service provider." Well, it then goes down to (b), which says, "where the service provider believes on reasonable grounds that the contents of the written communication may cause the child physical or emotional harm." Well, I don't know about you, but I don't know until I open a piece of mail what is in it, so what's this "reasonable grounds" thing? I'd surely like to know the definition of that, and this is all done once again in secrecy.

We go down to section 8, under 4(c). We now go into client-solicitor-"shall not be examined or read under clause (b) if it is to or from the young person's solicitor, unless there are reasonable and probable grounds to believe that it contains material that is not privileged as a solicitor-client communication." Once again, how do you know that until you open it? That's giving some people an awful lot of power. We're supposed to be a democracy, but from the way I'm looking at it, whether it's municipal, provincial or federal, it seems more like a dictatorship than a democracy.

Also, what are the reasonable grounds, again, that they're talking about? Reasonable grounds—that's great. What are they? They seem to go to great lengths to talk about them, but we don't know what they are.

We're going to go down to 9(2). Once again, we have "reasonable grounds"—no description of what "reasonable grounds" are. We go down to, let's see-just bear with me. "Subject to subsection (9), the service provider shall ensure that a child or young person who is placed in a secure isolation room is continuously observed by a responsible person." Let me put it to you this way: What happens if there are 20 kids? Are you going to have 20 people watching them? Or are we going to go the way of cameras so that we can take pictures of people? Unfortunately, the damage might well already have been done. We see that on the streets quite often. They take pictures of things, but unfortunately, those people they took pictures of are dead or seriously injured.

Again, subsection (7), "A child or young person who is placed in a secure isolation room shall be released as soon as the person in charge is satisfied that the child or young person is not likely to cause serious property damage or serious bodily harm in the immediate future." Do we have psychics on board here now, too? That's the way I read it, and I'm sure that's the way a lot of people read it.

We'll drop on down to subsection (8). No person can exceed eight hours in a 24-hour day, or 24 hours in a total of a week. Then, we go down to subsection (9). Why can they ignore—let's see, where is it? Sorry about this, folks. Just bear with me. Okay, here we are: "A service provider is not required to comply with subsections (5) and (8) with respect to a young person who is aged 16 years or older and who is held in a place of secure custody or of secure temporary detention, but a service

provider shall comply with the prescribed standards and procedures in respect of such young persons who are held in such places." Are we discriminating now again? A person who needs care needs care, and it doesn't matter what their age is—in that age bracket, I would suggest. But once again, secrecy seems to be the law of the land around this joint.

I'll go again to the provincial advocate now. I feel sorry for this gentleman because his hands are tied and I wish they weren't tied like they are. In section 30 of the bill, the provincial advocate can "(f) provide advice and make recommendations...." Again, that's convenient for the government of the day, the children's aid society and the Ministry of Children and Youth to give this power of review and make recommendations, which means squat. You can review it, you can make recommendations, but we don't have to do a thing about it. That man's hands, even if in the best of his—

The Chair (Mr. Shafiq Qaadri): Mr. Witzel, first of all, I'd like to intervene, with respect. I'll just inform you that your 10 minutes' time for presentation has now been consumed. We thank you for your presence with us by teleconference and for your deputation. As you know, you're welcome to submit any further comments in writing to the clerk of the committee. Thank you very much, once again, on behalf of the committee.

Mr. David Witzel: Well, sir, may I thank you very kindly, and if—

DEFENCE FOR CHILDREN INTERNATIONAL-CANADA

The Chair (Mr. Shafiq Qaadri): We now move ahead to our next presenter, from the Defence for Children International-Canada organization, vice-president Matthew Geigen-Miller and executive director Les Horne. Gentlemen, welcome. As you've seen, you've 20 minutes in which to make your presentation. I'd invite you to please begin now.

Mr. Les Horne: I am Les Horne. I just came here to provide a quick framework for what DCI can offer to the committee. I am history. History is what puts things in proportion to each other. The history of juvenile justice is one of unbalanced ideas and pet enthusiasms that go out of fashion like ice cream flavours. The trouble with juvenile justice is, when you make mistakes, like, I think, in this bill, you can't undo them very easily without hurting a lot of people.

Before I came to Canada, I took part in a study run by the George V Trust on the issues of youth development and socialization and read the reports of two Canadian studies on the treatment of young offenders. I was encouraged. I think it was called the Fauteux report. I was looking forward to work in Canada. The first shock of cold water came when I was in an office in the maximum security school in Guelph and saw a little boy, just 15 at that time, shuffle in in leg irons and handcuffs between two prison officers from Kingston. His name was Steven Truscott, and his sentence to hang by the neck until he

was dead had just been reprieved. Steven became a friend of mine. He was gentle and caring and wrongly convicted, but if Diefenbaker hadn't acted, he'd be long dead. We don't undo mistakes in this field easily.

That was in 1959. I was back to that building years later as the child advocate for the province when a boy named James Lonnee died a miserable death at the hands of his cellmate after days of abuse that were of concern to the staff, although nothing was done that saved him. That was one of a series of inquests which pointed at the destructive nature of the quality of care for young people in Ontario.

The year 1979 was designated by the United Nations as the International Year of the Child. It brought to light disturbing indications of the suffering of children throughout the world. The international year also marked the beginning of efforts to draft an international convention to lay the foundations for tackling these problems. Paradoxically, at this time, when children's rights issues were at last coming onto the world agenda, there was no international organization with the specific aim of promoting and protecting the rights of the child. Defence for Children International was set up precisely to fill this gap.

DCI has consultative status with ECOSOC, the United Nations, UNICEF and the Council of Europe. The International Secretariat is responsible for coordinating the activities of the movement and taking initiatives at the international level.

A US study of care facilities over the border recommended: "In addressing these issues it would be helpful for the United States to ratify the" convention "and commit to eliminating abuse in residential treatment facilities through better monitoring of the industry. Further, the establishment of independent complaints mechanisms for young people to report abuse without repercussion would allow children's voices to be heard while working to address the impunity that has continued unabated in this industry." But Canada has both ratified the convention and independent complaint mechanisms. DCI will say that in this bill, there's a prevailing disrespect for the convention and little desire to hear the voice of children.

Now I'll pass it over to Matt Geigen-Miller.

Mr. Matthew Geigen-Miller: Thank you, Les. I'm going to speak to our paper. We've submitted a position paper, which should have just been distributed to the committee members.

Mr. Chairman, honourable members of this committee, thank you very much for giving us the opportunity to appear before you and speak to Bill 103. This paper is detailed. I'm not going to read it. My remarks will focus on how DCI Canada is framing Bill 103 and a few specifics about the bill. I'm going to rush through in the hopes that we have time for questions, because there are many questions that we should be asking about Bill 103.

I want to start by saying that we disagree that this is housekeeping bill. We also disagree with the minister's comment that this bill strikes the right balance—and I say

this with respect to the minister; I don't doubt her commitment to children and youth in this province, nor do I doubt the commitments of the members of this committee. But in my view, this bill doesn't strike the right balance; it strikes out.

First of all, we support the unification of the youth justice system in Ontario and we have been calling for it for 10 years, since the James Lonnee inquest, which called for a single ministry providing all children and youth services in Ontario. The policy in Ontario of having two youth justice systems, one based on adult correctional practice and one that was youth-focused, is out of date, discredited and harmful to young people. It also does not make communities safe. Instead, it puts kids in danger.

We say that the project of finally unifying Ontario's youth justice system is only a good idea if it preserves the best, if it preserves the youth-focused system and brings the ineffective correctional-based system up to the higher standards of the youth-focused system. This bill does the opposite: It imports the adult correctional standards into the Child and Family Services Act. This is bad legislation, and we oppose its passage.

I'm going to quickly walk through a few of the provisions of the bill and a few of our comments, in the order that they appear in our paper. First of all, with respect to section 8, there are three things we have to say. First, it expands the scope of communications that can be opened and read by staff. It expands this from mail to any form of electronic communication, and this expansion applies to all children in care. It applies to foster kids, kids in group homes, kids in every form of treatment centre. Staff now have the power to seize things like cellphones and computers and read the written communications in them. This is not housekeeping; this is a substantive and serious change to the rights of children in care and to the protections available to them.

1530

This clause also imports into the CFSA standards from the Ministry of Correctional Services Act with regard to opening and reading of mail.

Finally, there's an attack on solicitor-client privilege, which we object to. It gives front-line staff in open-custody group homes and secure-custody facilities the power to open and read letters from lawyers if they believe, on reasonable and probable grounds, that there are materials in the letter that are not privileged.

The problem I have with this is, I would be very interested to know how much front-line staff in group homes and youth justice correctional facilities know about reasonable and probable grounds and the exact scope and content of solicitor-client privilege. My guess is that they don't know very much.

There is a new power to restrict visits in this bill which never existed before, in either the phase 1 or phase 2 system. We note that it has never existed before, and there haven't been any disasters yet.

We're particularly concerned about the power to terminate visits during an emergency condition. We note that the Provincial Advocate for Children and Youth will quite often need to access a facility the most during an emergency condition, and historically, we have seen this is true in the event of some sort of incident or disorder. We don't have "emergency condition" defined, so an emergency condition may be an incident that lasts an hour, but it might be declared to exist for a week, and that's unacceptable. The advocate needs to be able to go into a facility if there's a problem there—more so, not less so.

In regard to the provisions around level of detention, we will simply say that Bill 103 does two things. It preserves the charade that open detention is the default form of detention in Ontario. It preserves a presumption that open detention be used for all young people in pretrial detention, but it also increases the number of grounds upon which a young person can be placed in secure detention. So it preserves the presumption of open detention on one hand while undermining it on the other.

Notably, it creates a new ground for placing a young person in secure detention that uses the exact same criteria as the grounds for denying someone bail under subsection 515(10) of the Criminal Code. In other words, if a person has been denied bail by a justice of the peace in a bail hearing, they're automatically eligible for secure custody under this bill.

In regard to inspections, we're pleased to see the beginning of language describing inspections. It's a good start, but this proposal is inadequate. There are international standards dealing with inspections of juvenile justice facilities. They are excerpted on the last page of our paper. We recommend strengthening the inspection provisions, including measures that will bring the inspections in line with international standards.

Finally, in regard to the advocate's access to records, this is an issue that we brought up when Bill 165, creating the Provincial Advocate for Children and Youth, was before the Legislature. We recommended a broad power for the advocate to access records in the possession of service providers, agencies and so on. We renew that call, and we support the advocate's request for an amendment that would give it this power.

That's the road map of what is in this paper. I invite your questions. Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you very much. About three-minutes-plus per side, beginning with Mrs, Van Bommel.

Mrs. Maria Van Bommel: Thank you for your comments and your presentation today.

I'm looking at the first two recommendations that you have brought forward, in terms of your summary of recommendations. You refer to clause 8, which is about the privacy of written and electronic communications.

The legislation specifically says "may" be opened, so it doesn't say it shall be opened; it may be opened. In my community, we've had particular problems with things such as cyber-bullying. I would think that in this day and age, we would want to protect all children from such things. If you were to give access to, say, gang leaders who were to maybe try to silence a particular youth, or something like that—there needs to be some reasonable amount of opportunity to help children work against that, and to keep them safe from that kind of thing. This is a different age than we've ever experienced in the past. Like I say, coming out of a community where a young man committed suicide because of cyber-bullying, I think this type of sensitivity is very important. So I'd like to hear your comments on that particular thing.

Mr. Matthew Geigen-Miller: Thank you very much for your question.

I agree with you that there is some degree of interception that may be permitted. Obviously, cyber-bullying is a much broader issue than communications coming to and from a young person in a custody facility. In regard to young people in a custody facility, what we have suggested is that one measure be kept in place, and that is the ability to intercept communications to or from a young person in custody where there are reasonable grounds to believe that the content contains communications that are prohibited under the federal act or by court order. This would allow staff to intercept a letter or an e-mail or what have you—presuming they have a way of intercepting an e-mail—that is addressed to a witness or to a co-accused or any other person whom the person in custody is not permitted to communicate with by court order. Obviously, we don't want people to be allowed to intimidate witnesses or obstruct justice or collude with co-accused. That should be easy enough to do. It's different than opening the floodgates and saying that the staff should have an open door to seize all kinds of communications and read them, carte blanche. It's narrow, and it focuses on the community safety and administration of justice issue. That's what I think this committee should do: focus on not permitting a young person in custody to send or receive communications-

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there. Now to Mr. Shurman.

Mr. Peter Shurman: Thank you for appearing here. I find your deputation very disturbing. When I couple it with what we've heard from the provincial advocate, it sounds to me like your description of the bill as a strike-out means—and I don't want to put words in your mouth; I want you to comment on this—that you think the wrong people or no people have been consulted and that we're doing children a disservice with a bill like this. Are you advocating starting again?

Mr. Matthew Geigen-Miller: First of all, yes. Second of all, this bill is the product, of course, of years of things like coroners' inquests, so in that sense there has been a lot of learning that appears to have gone into it. But in many cases, it claims to be implementing certain measures while also containing measures that completely undermine them.

I think the best way to find out the difference between what a bill claims to do and what it really does is through consultation. To my knowledge, there has not been significant consultation on this bill, certainly with effected young people. **Mr.** Les Horne: And consultation with young people, too. I think that's a vital thing.

Mr. Peter Shurman: That was a question I wanted to ask, as well. I'm looking around this room, and there are not that many people here; there are no young people here. So I wonder what kind of consultation there has been.

There's not a member of provincial Parliament in our Legislature who doesn't get—I won't say "besieged," but sometimes it does go that high—requests on a constant basis from people who have an involvement with the youth justice system, whether they be youth or parents of youth. They talk about, most significantly, the lack of opportunity to communicate with the ministry. Now I hear that the provincial advocate can't communicate with the ministry either. Is that your experience?

Mr. Matthew Geigen-Miller: We're not going to speak for the provincial advocate—

Mr. Peter Shurman: No, I'm not asking you to do that. I'm asking you to speak for DCI.

Mr. Matthew Geigen-Miller: I should say that we do communicate with the ministry about issues from time to time, and every time we've ever corresponded with the ministry, we've received a reply. There have been times when it takes a while, and we understand that.

The issue for us is that there could have been a broader consultation around this bill. We didn't know we needed to communicate with the ministry before this bill was introduced, because there was no consultation process. So it's not that the ministry is ignoring us or not treating us with respect or with courtesy; it's just that we didn't know about it until it was introduced, and no one else did, obviously, because it wasn't public. There should be a process like that so that people can know there's an opportunity to comment.

Mr. Peter Shurman: Mr. Horne, a final question: You began with a reference to something about ice cream. Are you suggesting that we're dealing with the flavour of the day in terms of how we deal with our young people?

Mr. Les Horne: There is a real flavour of the day about juvenile justice legislation, yes.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Horwath.

Ms. Andrea Horwath: I just wanted to pick up on the idea that you have no problem communicating with the ministry; that they actually respond to you. That's good to hear.

I should start by thanking both of you for being here. You've done some great work, not only here today, but in previous pieces of legislation that governments brought forward that address issues of children and youth. Thank you for your involvement. It's extremely important.

1540

I asked the advocate earlier about the idea of protocols, the minister saying that protocols would need to be put in place so that they can provide information to the child advocate. Did you want to comment on that?

Mr. Matthew Geigen-Miller: Yes, I would. Presumably, the notion here is that we can't just hand over anything to the advocate because that would include materials that are confidential and so on, and what might the advocate do with those confidential materials? I just want to draw attention to sections 19 and 20 of the Provincial Advocate for Children and Youth Act, 2007. These are provisions that were written by the privacy commissioner and which are the most strict confidentiality provisions applying to any office of the Legislature in Ontario. The advocate does not have leeway to simply release information without the consent of those people involved. The notion that we have the consent of the privacy commissioner now to see what the advocate might be able to do with information they're given is nonsense because the government did consult with the privacy commissioner, and what we have, in the provincial legislation regarding the advocate, is exactly what the privacy commissioner recommended.

I appreciate that we want to put restrictions on abrogating solicitor-client privilege or cabinet secrets—no one's suggesting that, and perhaps there's a little bit more that can be done—but the fact of the matter is, the advocate should have access to virtually anything that's relevant to its functions, and then there are significant protections already in the act that would prevent the advocate from simply publishing or releasing confidential information without the consent of those affected.

Ms. Andrea Horwath: One other question. The discussion you started early on in your comments around the bill not being particularly helpful for young people, that it's actually going backwards—it's a strikeout, I think is what you said specifically. The minister keeps saying that this bill is going to provide young people with new supports and services and that it's going to provide them with assistance in getting out of the youth justice system. Could you comment on that, please?

Mr. Matthew Geigen-Miller: Bringing all of the youth justice services under the Child and Family Services Act and the Ministry of Children and Youth Services is a good thing; it's good policy. Generally speaking, it's great, and if that's what this bill was doing in effect, then we would completely-and it does do those things, but what it does also, as a compensating measure, is bring in a variety of provisions that import into the CFSA the old standards from the phase 2 correctional-based system, and that's our problem: It seems to be heavily slanted toward bringing in those correctional-based approaches. The reason for that is because we think there is still a belief in the government, in this province, that 16- and 17-year-olds do not have rights as children and should not be treated as young people. We believe that they should be, and if they are, we should have the standards, the processes and the practices that work. They're good ones; they're under the Child and Family Services Act and they should apply to everyone.

Ms. Andrea Horwath: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Horwath, and thank you, gentlemen, for your pres-

entation on behalf of Defence for Children International-Canada.

YOUTH SERVICES BUREAU OF OTTAWA

The Chair (Mr. Shafiq Qaadri): We'll now welcome our next presenter, who will have 10 minutes in which to make her deputation, Ms. Natalie Ravera. Is Ms. Ravera present? If not, we'll now proceed to Mr. Alex Munter, the executive director of Youth Services Bureau of Ottawa.

Mr. Munter, welcome. You have 20 minutes in which to make your deputation, and I would invite you to begin now.

Mr. Alex Munter: Thank you very much, and greetings from Canada's capital. As somebody who grew up in Ottawa, it's not very often I can say I come to Toronto for some peace and calm. Our town is a bit electric at the moment.

Mr. Dave Levac: For the record.

Mr. Alex Munter: Thank you for this opportunity. I am here on behalf of the Youth Services Bureau of Ottawa to give you some insight as a service provider in terms of how this legislation fits the work that we do. What I'd like to do is tell you a little bit about the Youth Services Bureau, how our youth justice programs fit within our agency and why we support the general direction of this legislation, and that is to put youth justice under the umbrella of the Ministry of Children and Youth Services and under the framework of the Child and Family Services Act. What we try to do in our organization is the integration of services. I'm just going to talk to you a little bit about that because that's the context, that's the filter through which we have looked at this legislation.

First of all, it's important for you to understand our philosophy and what we believe. The core belief that we have, as an agency, is that no young person's life chances, no young person's future should be defined by an obstacle they have faced, by a struggle they have endured or by a single choice that they have made. That philosophy binds together our four different programs: employment, mental health, housing and youth justice, which we deliver at 20 locations across Ottawa to some 12,000 individuals per year. There's an interesting interplay between our programs, really, because three of our programs work really hard to prevent the fourth program from getting clients, and that's that the mandate in employment, in mental health, in housing and community services is in fact to prevent people from getting caught up in the catchment of our youth justice program.

Our agency was founded in 1960 and has always been involved, over nearly 50 years, with young offenders, but our programs in youth justice expanded dramatically in 1999, when the former government transferred the operations of the William E. Hay Centre in Ottawa to our agency.

The minister mentioned earlier some of the work being done in various communities across Ontario; ours is one. Our facility is currently being expanded from 24 to 40 beds, in order that the youth unit at the adult detention centre can be closed by April 1. That is part of the rationale behind the legislation.

The director of that facility, a gentleman by the name of Gord Boyd who has worked in this field for a long time, has a great line that he uses that I think really describes what we try to do there and how he tries to lead his staff. He says: "Often, we don't do rehabilitation; we do habilitation." We're giving young people who are in our custody, through clinical programs, educational opportunities, recreation, social contact, and links with our other programs, the opportunity to succeed. At our agency, in any of our programs, where we see young people is at that fork in the road; that something has happened or a series of things have happened, and we have an opportunity to work with them so that they can succeed in that journey and take the path that will lead them to a better future. Within youth justice, our programs are secure and open custody and detention, community reintegration; we have a mental health court worker at the provincial courthouse and an anger management program.

What I'd like to do is just illustrate, through two examples, the way in which we try to make integration across these services work and why we think integration across these services is important. Just two short case studies: One, a young person presenting with a narcissistic personality disorder who was in secure detention on a number of charges. While with us, he became stable, began to interact with staff and peers in a pro-social way—on the streets, he had always been quite isolated and alienated. He began to go to school, succeed in school and, as he left, we worked to discharge him into our own community services to ensure that the success that he was having in the facility could be continued.

A second example: a youth who was charged with a federal offence, a first-time offender, who worked with our mental health court worker and who has gotten involved with recreational opportunities upon leaving our facility. We are working with his mother around crisis counselling and establishing a behaviour contract so she is able to hold him accountable while he lives back at home. We are working to get him into our housing program—we have three long-term apartment buildings—and we brought our employment workers in. He's been in a full-time job successfully now for three months, since just after Labour Day.

So what you see in those two case studies are examples of where we try to deploy resources across our agency and across programs to support young people when they're with us in the custody and detention part of our agency but, more importantly, so they are well-positioned to succeed in their lives and not return to visit us.

1550

I think that for us what is important about this legislation as a driving principle is that notion of integration, that notion of trying to put youth justice within that range of services and within that range of programs that speak to giving young people every possible success and giving young people who have faced those challenges and those struggles and who have made perhaps poor choices, an opportunity to succeed.

I'll end there, and I'm happy to answer questions if there are any.

The Chair (Mr. Shafiq Qaadri): Thank you very much, Mr. Munter.

There's a generous amount of time, maybe about four minutes or so, beginning with Mrs. Munro.

Mrs. Julia Munro: Thank you for being here today. I just wanted to ask you a quick question with regard to the way in which this bill has been structured in terms of contemplating bringing people together from 12 to their 18th birthday. Do you see that as being something that is going to have any impact on the provision of services you provide? Do you anticipate any kind of change in regard to those people you serve?

Mr. Alex Munter: We are already starting to see—because the transfers are starting to happen out of the youth unit at the adult facility, we're starting to see older males. The issues are different, and we are developing our clinical programming. We've worked with the ministry to be able to have the resources to strengthen our clinical programming.

A big thrust of this is education, and we're blessed in partnership with our local school boards, to be able to work with them. Really, it's quite inspiring to see some of these kids who've really never succeeded in an academic environment be able to do well. But I would say that taking these older young offenders out of the adult system, out of that facility, putting them in our program, which is then connected to education, to employment, to mental health, to housing—all of that, I think, will really strengthen their odds of success.

Mrs. Julia Munro: Thank you very much.

Mr. Alex Munter: Thank you.

The Chair (Mr. Shafiq Qaadri): Ms. Horwath.

Ms. Andrea Horwath: I thank you for your presentation. It's very good to hear specifically from people in the field, if you will, who are providing services, and that's very helpful in terms of our insights.

One of the things that's come up—it came up from the child advocate and the previous presenter as well—is the issue of the interception of mail, particularly of mail from children and young people, pretty much the ability to open and read and intercept and keep mail from young people without them even knowing that that's being done or has been done. Is this something that you would think is a good practice or a practice that is supportable?

From my perspective, the reason I ask it is, as you describe your programs, they seem very respectful of the relationships with young people. They seem to build on creating relationships of greater trust and responsibility. The message that this bill tends to bring is quite the opposite from that in regard to mail. Could you comment on that a little bit?

Mr. Alex Munter: I would say a couple of things. First of all, I think the authority of opening mail is an important tool to ensure both community safety and the safety and security of the facility. We've talked a little bit about how we would apply this and how we would deal with this, and there are a couple of ways to do it. One would be to open the mail in the presence of the young person so that they know that it's happening. The other is to advise them that we would be interested in opening their mail, barring if there's a concern that there's something imminent in the package, but to say that it would be our intent to open the mail and give them the option that it be set aside, closed and that they don't have access to it or that they receive it once they leave. So I think there are ways. I understand why the provision's there. I think it is an important tool that will rarely be used. It's an important tool, however, for our folks to have.

On the other hand, I think there are ways to ensure, and it would certainly be our intent in our practices and our policies and procedures to do this in a way that is very transparent, that the young person is involved and is aware of how the rule is being applied.

Ms. Andrea Horwath: If we were to get the government to agree to an amendment that still allowed for mail to be opened, but built in some of the principles that you talked about, as opposed to leaving it wide open—you're going to be doing your implementation of this new legislation in the way that you've described, but there's nothing that says that any other facility or group home or anything at all is going to take that same kind of respectful view. Would it be problematic for you if an amendment was accepted by the government that built in some of the principles that you talked about?

Mr. Alex Munter: This is the kind of approach that we, again, within the framework of what the legislation is, have been contemplating. So, obviously, that is the direction that we're intending to head with it.

The Chair (Mr. Shafiq Qaadri): To the government side and Mrs. Van Bommel.

Mrs. Maria Van Bommel: Thank you very much for attending today.

For clarification, I just want to read from the legislation on the issue of the opening of mail. Clause 8(3)(a) says that mail "may be opened by the service provider or a member of the service provider's staff in the child's presence..." So I think when you talked about that type of respect for the child and the youth, that is clearly stated in the legislation already.

I also want to comment on what you had said earlier about the forks in the road. Certainly, there are forks in the road all throughout life. We all have, at times, made a bad decision, but I think the earlier in life that those bad decisions come about, the more critical it is to make that turnaround and create an opportunity, rather than setting a path for lifelong problems.

I want to thank you very much for the work that you're doing. I think it works very well and is well integrated into the kinds of work that the Ministry of Children and Youth Services is mandated to do, as well.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Munter, for your deputation on behalf of the Youth Services Bureau of Ottawa.

JUSTICE FOR CHILDREN AND YOUTH

The Chair (Mr. Shafiq Qaadri): Now we have a little juggling, as in some cancellations and teleconferencing and so on, so I'll ask on behalf of the committee, do we have Lee Ann Chapman from Justice for Children and Youth?

Ms. Lee Ann Chapman: Yes.

The Chair (Mr. Shafiq Qaadri): You're probably about 20 minutes ahead of schedule, but if you're ready, we'll invite you to please begin. Welcome. As you've seen, you have 20 minutes in which to make your presentation. Thank you for coming forward earlier. We invite you to begin now.

Ms. Lee Ann Chapman: I'm pleased to be here, first of all, because I've had a day of computer glitches—I will apologize, because when you received my copies, you received them at the last minute. I do apologize again, in advance, if there are any typos or any areas that are unclear.

First of all, I want to introduce our organization and let you know that I'm here as a lawyer from Justice for Children and Youth and that my representations here will be from a legal perspective and, most importantly, from a children's rights perspective.

For those of you who may not know, Justice for Children and Youth is a legal aid clinic. We're a specialty clinic and the operating arm of the Canadian Foundation for Children, Youth and the Law. We've been operating since 1978. We provide select representation to young people in the areas of child welfare law, criminal law, education law, mental health law, human rights law and income maintenance. Those are our main areas of lawbut really it's direct representation to youth in all areas of the law that affect young people. We regularly prepare policy positions on issues relating to the legal practice as it applies to children's rights. We also conduct a large amount of test-case litigation. I'm hoping to come here today to put myself out of some work in the future by pointing out some problems that I see in the legislation, as it's now drafted.

Overall, I want to say that our organization applauds this legislation and the idea of bringing all children under the age of 18 years who are in custodial and detention facilities under the Ministry of Children and Youth Services. We're pleased to see this happen. We've been waiting for it since the implementation of the Youth Criminal Justice Act, and now we're happy to see that Ontario has followed suit. We believe it is appropriate to regard all children under the age of 18 as having the same rights.

1600

However, we do believe that there are some serious concerns in the bill, some issues that may have been overlooked, or some perhaps unintentional consequences. Again, I caution, if some changes are not made, we see some impending constitutional challenges for the bill as it now stands.

In making our recommendations, I just want to quickly say that we're guided by the following principles: that all children and youth have the right to be valued and to be treated with respect and dignity under domestic law and under the UN Convention on the Rights of the Child, which Canada has ratified and Ontario has signed on to. Under that is the right of every child accused of or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for human rights generally and the freedoms of others. These principles have been repeated in many international instruments. I want to remark again that under all of these international and domestic instruments, the age of the child is defined by being under the age of 18. That's consistent throughout. These children should be detained separately from adults and, most comprehensively, nations should develop a separate juvenile justice system that emphasizes the well-being of the juvenile.

Our overarching concern is that some of the amendments here, in some areas, substantively incorporate some ideas from the adult system, rather than continue to view children as separate from adults. I know that's unintended, and you may be surprised to hear me say that because I don't think that is the intention of this legislation at all, but I think it happens in some areas.

The UN Convention on the Rights of the Child, together with domestic legislation and, most recently, in the Supreme Court decision of R. v. D.B., constitute legal recognition of the principle of separation of young persons and adults in the criminal justice system, from a human rights and a constitutional perspective.

First of all, I'm sure you've had this pointed out, but as a lawyer I have to be nitpicky and I just have to point out to you that often there are references to the Young Offenders Act—I hope that will be changed—rather than the Youth Criminal Justice Act, so if you would just note that throughout. It first says the Youth Criminal Justice Act and then after that, the constant references are to the YOA. As lawyers, we will make hay of that, so I would appreciate your just noting that.

Secondly, I have some concerns about subsection 2(3.1), and this is the power of the minister to appoint as a peace officer anyone who works with youth. These seem to be incredibly broad powers to me. I have attached to my submission an addendum explaining what the powers of a peace officer are, and those include the powers to arrest and also the powers to carry restricted weapons.

My concern is, this sends the wrong message to those who work with youth. It incorporates the mentality of an adult correctional worker rather than ensuring that all residential placements for young people and youth, and this would include youth who are in group homes and not necessarily even in custody—that we focus more on

training people to deal with young people as young people, to be respectful of the youth's rights while maintaining safety when necessary. It's a balancing of vision.

Our concern is that this section would, if not now then by some future government, lead to any and perhaps all youth workers in any facility, regardless of training, having the widespread powers of a peace officer. My concern is if it stands as it is, this could really increase powers in the future.

My other concern is, under section 5, the conditions for secure detention. I had to read this a couple of times to recognize what the difference was here. My concern is that it removes from the old legislation in the first part of the section the necessary and sufficient condition that placing a young person in secure detention is necessary to ensure the young person's attendance in court or for public safety reasons. I think that's important. I think it keeps this legislation in line both with what the Supreme Court has said in R. v. D.B. and other cases, and it's also consistent with the Youth Criminal Justice Act as it stands, which states that the least restrictive custody possible should be considered for the young person. We should not have a default position to secure detention. My concern is that by removing that necessary and sufficient condition, we are going to broaden and return to the days when young people who didn't show up to court were regularly put into detention facilities.

As many of you probably know, one of the reasons for the Youth Criminal Justice Act is that Canada incarcerated more young people than any other country in the western world, and that included the US. The vast majority of those young people were in detention facilities for so-called administrative violations. Generally, those were young people who didn't bother to show up to court on some day. It's not unusual for young people to forget and miss a day of court. It doesn't mean that they won't attend court. It also included young people who violated curfew conditions. Young people are much more likely to be given curfew conditions. They would violate those conditions, and they would end up in detention facilities.

Custody, as many of you probably know, whether presentencing or post-sentencing, is highly destructive and traumatic in the lives of young people. In custody, they suffer not only disruptions in their education—because even though we have wonderful facilities that work together with school boards to ensure that in the long run they are able to get education, those who are in detention for short periods of time rarely do. It's very disruptive. In my experience, if they're 16 or over, most of them are likely to drop out of school, to not return to school, if it has been disrupted to that degree. Even with learning to 18, that continues to be a problem, so I think that's something we have to be very mindful of.

A report commissioned by the Department of Justice in 2004 talked about pretrial detention as not being an appropriate tool to reduce recidivism rates among young offenders. It can, in fact, have the opposite consequence: that they are much more likely to reoffend once they've spent time in a custodial facility. I think it's in all of our

interests to ensure that young people do not become repeat offenders. I think it's necessary, then, to try to ensure that the least restrictive means possible, while balancing public safety, is going to be the most appropriate.

My next one—and I've heard you talking about this is a significant concern for me: the privacy of young people under section 8. I consider this a significant violation of privacy rights. As was pointed out, it does say that they may open it in the presence of the young person. As a lawyer, to me, that doesn't mean "may only" or "can only"; it means that they may or they may not. If that's the intention, I think the language has to be stronger to ensure that the young person is there when mail is being opened. I think that that may just take redrafting of a word to ensure that the government's intention is going to be observed in the future. I think that while there a lot of wonderful facilities that will be very respectful, as this gentleman was stating, we can't rely on people having appropriate policies that respect the privacy of the young person.

My other concern is that there don't seem to be any guidelines. I would like to see something in there that says they consider that there is a probable cause or reasonable justification—some language as to why their mail is being opened, rather than "We can do it; we will do it." As I say, it's going to be very dependent, then, on the people in charge of the facility and how they act.

My other concern, and this is a great concern as a lawyer, is the exception on solicitor-client privilege. As everyone knows who's a lawyer, it's the one privilege that's constitutionally protected. It's a principle of fundamental justice, and we think it has to be guarded. My concerns here are twofold. First of all, it allows the facility to open a letter from the lawyer—not to read it, but to open it, and I think that in itself is a potential violation of solicitor-client privilege. I do not think it should be opened. Quite frankly, I don't understand the purpose of opening it if you're not going to read it or survey it or do anything with it other than just hand it to the young person. Perhaps that can be pointed out. But I do think that this is a possible violation.

1610

My other concern is further down, and this may be just a drafting issue in the act and it may be that it is meant to be inclusive, but further on, under 8(4)(c), it says "shall not be examined or read ... if it is to or from the young person's solicitor, unless there are reasonable and probable grounds to believe that it contains material" that is subject to solicitor-client communication and therefore privileged.

I think the Supreme Court has made it pretty clear that the only person who can determine whether or not a communication from a lawyer is subject to privilege is a court. It certainly is not a service provider. I think this will be jumped on, I would assume, by the bar associations in the province as it stands, if it's not clarified. I'm not sure, in reading it, if that's the intention or not, but certainly the determination of privilege from a lawyer cannot be made outside of a courtroom. I think that's essential.

The other thing that I would like to add to that is I have some concerns that there isn't an exemption for the child advocate. My concern is that if the child feels that any communication between them and the advocate, who is there to protect and advocate for them and in many cases is the only person they are going to be speaking to-most of them will not have a lawyer; this is the person who they go to if they feel there's a rights violation. If they believe that that communication can be opened, then they're going to feel, whether or not it's true, that they are going to be subject to reprisals within the institution. I think that's a significant concern for young people. I don't believe it's the intention of this act, but without having it specifically in the CFSA—and I think it needs to be there, because certainly, as I know, very few people read legislation that they don't have to. I've heard about the child advocate going in hand with legislation that says, "We have private communications" because no one has read that legislation. I think it's likely that service providers will read this and I think it should be reiterated in there that private communications with the child advocate include written and oral communications, and they should not be subject to being opened or read by the service provider. So on that front, I think I've sort of covered that.

As for secure isolation—I'm sure you've heard this before today; I'll be surprised if you haven't—I must say I think it's unfathomable that the same protections do not apply to 16- and 17-year—olds when it comes to secure isolation. Those of us who have been through the Meffe inquest and the Lonnee inquest know—in fact, David Meffe was 16 at the time—that young people in secure isolation are more likely to have suicidal ideation, are more likely to contemplate suicide. I think this is a basic protection that the government has to provide.

To me, it's constitutionally incomprehensible that we would have this arbitrary difference now that both groups of young people are under the same legislation, that we would have this arbitrary difference in protection when it comes to secure isolation. From the government's point of view, I would be concerned about possible civil litigation coming out of this if a young person ends up harming themselves because they didn't receive the same protections because they happened to reach their 16th birthday. I would be concerned as a member of the government; I'm concerned as a member of the public that a young person at the age of 16 wouldn't have the same protections as afforded to a 15-year-old. It certainly isn't in line with the UN Convention on the Rights of the Child. I can only assume it was an oversight. I can't see any rationale for it.

I think I've hit the main points. I've tried not to repeat what I've heard other people speaking of.

The Chair (Mr. Shafiq Qaadri): Thank you. A brisk one minute per side. Ms. Horwath.

Ms. Andrea Horwath: Thanks very much and thanks for the clarification, particularly around the issue of lawyer-client privilege, because it has come up. But I think you explained it very, very well, and I appreciate that.

I want to get you to talk a little bit more about the secure isolation issue, because I think it's an important one. If there were to be an amendment to the act, it would basically be taking away the differentiation in terms of age. That would satisfy you in terms of making sure that all young people, regardless of if they're 16 or 17, are provided the same—

Ms. Lee Ann Chapman: Absolutely. That goes for the observation and the times in secure isolation. I think all the same protections must apply.

Ms. Andrea Horwath: Could you comment on the issue around the backlogs in the courts and the extent to which that might then affect children or young people?

Ms. Lee Ann Chapman: One obvious place it affects young people is in detention. That is one of the reasons why the Youth Criminal Justice Act has tried to minimize the amount of time that young people—

The Chair (Mr. Shafiq Qaadri): Thank you. Mrs. Van Bommel.

Mrs. Maria Van Bommel: Thank you for being here today. You've brought up a number of points. I hope you will send us a written submission as well, because there are so many different things that you've brought forward.

My understanding is that under the Child and Family Services Act, any mail from the advocate is not to be opened, so I'm assuming that would also be part of policies going forward.

As I say, I really do look forward to getting your numerous comments in writing, because there was quite a bit that you brought forward. I appreciate you being here today.

The Chair (Mr. Shafiq Qaadri): Mr. Shurman.

Mr. Peter Shurman: You talk about custody being disruptive. I could tell you a story, which I won't bore you with—and we haven't got the time, anyway—of a woman in my riding who has had her daughter in custody probably two dozen times. She always successfully gets out and then winds up selling her body, getting into drug problems—you name it, she's been there. It would be my view that, if anything, we should be a little harder on the custody aspect of it. Please comment.

Ms. Lee Ann Chapman: I think if you look at the social science evidence—all our comments are always evidence-based. We don't like to make ideological assumptions. I think if you look at the research in Canada, by people like Anthony Doob, or in the US on the juvenile justice system, you'll find—and that's why the amendments to the Youth Criminal Justice Act specifically state that you cannot substitute child welfare reasons for custodial reasons.

In other words, the courts are not good at doing this. Jail is not good at doing this. It's not a place where people get better. In fact, the more contact that people have in custodial facilities, the more likely they are to reoffend. There are some people who will go on to offend. Certainly, locking someone up for their own protection has not been a cure in the past and there's no reason why it would be in the future. I think we have to use science—

The Chair (Mr. Shafiq Qaadri): Thank you for your presentation on behalf of Justice for Children and Youth.

CHRIS McCALLUM

The Chair (Mr. Shafiq Qaadri): We now move to our next presenter, Chris McCallum, who comes to us by way of teleconference. Mr. McCallum, you have 20 minutes in which to make your presentation. The committee is awaiting your remarks, and I invite you to begin now.

Mr. Peter Shurman: Ten minutes.

The Chair (Mr. Shafiq Qaadri): You have 10 minutes to make your presentation. Thank you.

Mr. Chris McCallum: Good afternoon. The two topics that I want to speak in regard to are subsections 8(3) and 8(4).

"(3) Subject to subsection (4), written communications to a child in care,

"(a) may be opened by the service provider or a member of the service provider's staff in the child's presence and may be inspected for articles prohibited by the service provider;"

My concern is that the word "articles" is very broad. It allows for open interpretation, to mean both physical material as well as written statements in a letter or correspondence, thus allowing whomever to interpret the legislation as it fits the provider's own purposes. To provide an example, if a client receives a letter, correspondence or package and receives material or a physical article that's prohibited, then it would have to be justified by the withholding of the material or physical article. But if there is something that is written in the correspondence that the alleged provider does not want the client to learn of, they can black it out or withhold the entire letter. The identity of the sender is irrelevant, but if the receiver/client is being advised in writing by the sender that, let's say, the treatment the client/receiver is receiving is unlawful, the provider is not going to want the receiver to learn of this, thus the word "articles" implemented in this legislation: They could just block it out. I don't understand why a word so broad would be used.

1620

A case in point that is currently an issue with the children's advocate office and very well headed to court: The children's advocate is attempting to investigate a claim by a youth who called his constituency office claiming that he was beat up, assaulted by the guards. I put to this committee, what do you think would happen to any correspondence that the advocate might send this youth in regard to his rights and/or complaint procedure? Do you really think that the provider wants this youth in question to have possession of this article—and I again emphasize "article," which is the word used in the proposed new legislation—to give justification to my claims, has not the advocate taken this matter to court and will be heard on December 9, 2008, just to be able to learn of the youth's claim at first hand? There should be a list defining articles, listed and provided to the ministry for approval. I don't know who else has brought up the issue,

but those are my personal sentiments on that specific piece of legislation.

In regard to proposed (b) and (c): "(b) subject to clause (c), may be examined or read by the service provider or a member of the service provider's staff in the child's presence, where the service provider believes on reasonable grounds that the content of the written communication may cause the child physical or emotional harm." In concurrence with the former, it would only be natural for the receiver of the correspondence to be emotionally upset to learn that not only are his rights being violated, but they, being the service provider, are both committing malicious acts and/or breaking the law to obstruct any discovery/exposure of those facts that would lead to a formal investigation, which could or would lead to the reprimand of not only the individual perpetrator but also the agency provider they work for.

I know it's kind of a tomahto-tomato thing between one paragraph and the next, but I just wanted to state my sentiments on the matter.

Particularly with paragraph 5, it says, "In this section, 'written communications' includes mail and electronic communication in any form." They use this part 5 to ensure that they have covered all forms of written communications and use the word "written" specifically so there is no doubt. Yet as the former, they use the word "articles" with, as before mentioned, criminal and conspiratorial intent to facilitate their ability to commit whatever malicious and criminal acts they choose to. If caught committing such, they can simply use the broad interpretation of the word "articles" to ward off liability. It's been done over and over.

The second one I wanted to speak to is section 59. As this new legislation reads, "Every member of the Legislative Assembly of Ontario is entitled to enter and inspect any correctional institution or community resource centre established or designated under this act, whether it is operated or maintained by the ministry or by a contractor, for any purpose related to the member's duties and responsibilities as a member of the Legislative Assembly, unless the minister determines that the correctional institution or community resource centre is insecure or an emergency condition exists in it." This proposed legislation is not only broad, elusive and constrictive, but it also facilitates malicious and criminal acts. I can't believe that this type of wording is allowed to be in legislation.

The proposed legislation states: "Every member of the Legislative Assembly of Ontario is entitled to enter and inspect any correctional institution or community resource centre established or designated under this act, whether it is operated or maintained by the ministry or by a contractor"—which includes the children's aid society—"for any purpose related to the member's duties and responsibilities as a member of the Legislative Assembly," but they now turn around and prevent members of the Legislative Assembly of Ontario from entering, who have been elected by the people to represent the people, with a really concerning addition that

states, "unless the minister determines that the correctional institution or community resource centre is insecure or an emergency condition exists in it." If that addition is to be included in the proposed new legislation, that would facilitate obstructing and/or hindering a member of the legislative body, so there is an imperative need for safeguards and documentation with these actions. such as if the minister and/or a senior staff official at the location intends to deny such member access, they are to put in handwriting the reasons why they intend to deny access and provide such handwritten letter forthwith; also, upon such handwritten notice, it is up to the member of the assembly to decide if the alleged insecurity does in fact endanger the member, staff on location, other parties at the location, or the safe function of it and/or if the alleged emergency warrants the denial of the member's right to enter. There's just way too much leeway to

As mentioned in the previous scenario, if the youth is calling the advocate at his constituency office in regard to being wrongfully assaulted and abused by guards, and fellow inmates, clients or foster children are acting out in retaliation, the minister can flagrantly claim to the member of the assembly that there's a security issue on the premises, yet the reason for that issue would be due to the officials' and staff's own wrongdoings. They would be trying to keep superiors, such as yourselves, members of provincial Parliament, from observing and learning about the aforesaid officials' and staff's wrongdoings. I don't see how legislation can be put in there to allow such flagrant manipulation of legislation for malicious purposes-I'm really not speaking straight here but anyways—for example, here's a publicly noted incident: They claim that these types of acts by officials do take place and are committed-

The Chair (Mr. Shafiq Qaadri): Mr. McCallum, I'd just like to inform you that the time allotted for your presentation has now been consumed. Thank you, on behalf of the committee, for your time, thoughts and deputation. Please feel free to submit any further commentary in writing to the clerk of the committee.

CHRIS CARTER

The Chair (Mr. Shafiq Qaadri): I'd now like to call our next presenter, Mr. Chris Carter, who I note has been sitting there very patiently for the last three hours. Mr. Carter, I welcome you. As you've seen, you have 10 minutes in which to make your presentation. I would invite you to please begin now.

Mr. Chris Carter: Thank you very much. This is a fairly intimidating environment for me to speak in today—I am actually a construction worker; if you want to know how to run a bulldozer or install water main pipe, I'm your man—but I'm going to do my best.

Initially, I'd like to qualify my presentation today by stating that I have a layman's understanding of child protection and welfare issues. I acknowledge that I do not know all of the implications and/or ramifications con-

nected to the issues being discussed today. As well, my understanding of the issues may not be as accurate as some of the others in this room.

1630

That being said, I want to humbly and deferentially impress upon this committee today that granting the Ministry of Children and Youth Services, and by extension, the 52 or 53 children's aid societies in the province of Ontario today, more power, fundamentally and essentially, is most definitely a gigantic step in the wrong direction. That is the last thing, from my perspective, that our society, our children and our families— especially but not exclusively those who come from the poor, working poor and working class socio-economic groups—need for their health and welfare.

From the perspective of parents who have had their children removed from their care by children's aid societies, the playing field is almost uncontestably tilted in the favour of the children's aid societies. The uncontested nature of that is defined by various aspects. One is the credibility advantage, which is provided to the children's aid societies and their workers by the courts—from the perspective of the parents, inexplicably so, unjustifiably so. Another is the significant financial resources which the children's aid societies are able to call upon from the Ministry of Children and Youth Services.

Many of the parents are reporting that the children's aid societies seem to be following an ideology or a practice of intimidation, domination, subjugation through litigation. The amount of money the children's aid societies are spending on litigation as opposed to the amount of money that they are spending on trying to solve families' problems—the contrast is significant and serious, and as far as we're concerned, a very real cause for concern.

Just very quickly an example: The Waterloo region, one of the healthiest regions in Ontario in terms of their economy—if you ever go there, you will be impressed by the number of hockey arenas, baseball diamonds, churches, schools, and yet for some inexplicable reason, that community, which is home to Research In Motion—I see a lot of BlackBerries here today—and Toyota, among some of its other very strong and healthy companies, is burdened with perhaps the most litigious children's aid society in the province of Ontario today. There is no justifiable reason for that to be the case.

Earlier on, one of the presenters spoke about the roots of youth violence material which had been passed out. First of all, before I forget: In terms of procedure, I wonder if the committee would consider allowing, in the future, the presenters to ask questions of each other, because I'm here to testify today that I would most definitely have taken advantage of the opportunity to ask questions of the honourable Minister of Children and Youth Services, Ms. Deb Matthews, and I very much wish to do so, but I guess the rules do not allow it. But perhaps the committee would consider amending that in the future.

We heard from one of the other honourable presenters that Ontario has historically incarcerated more youth than any other jurisdiction in the world. It is my understanding that today—I remember reading not too long ago a transcript from a speech that the Honourable Deb Matthews had made to the Legislature, where she stated that currently we have somewhere around 29,000 children in state custody in Ontario today. I believe that makes us again, in terms of numbers, the jurisdiction which distinguishes itself as having the highest number of children in state care. I wonder if the increase in youth crime which is being reported to this committee today—I wonder if there is any correlation between those two facts, i.e., that we have so many children being removed from their families, and then we have so many children engaging in crime. I am here to assert to this committee today that, in fact, there is quite possibly a relationship between those two issues.

Again, with my layman's understanding—I have read social science material which asserts that removing children from "mildly dysfunctional homes" is a mistake. That is what is occurring. In fact, I know that children are not being just removed from mildly dysfunctional homes or seriously dysfunctional homes in this province today by the children's aid societies, but they are actually being removed from homes that are healthy and in which the children are loved and very much cherished on a daily basis. I believe that the emotions that are engendered in those children who are being removed from those homes, regardless of the fact that they may or may not be working poor, is what might be resulting in the increase or may be contributing to the increase in youth crime.

We often hear reports from fathers stating that the children's aid societies—and I do not want to make this a gender issue at all—and the family courts in Ontario are blatantly discriminatory towards them. If we think back to our own childhoods, of our two parents, to which one did the responsibility fall, in terms of making sure that we were raised, socialized and enculturated to be lawabiding citizens? I would humbly submit to this court that that was our fathers' responsibility primarily. Alternatively, the nurturing, historically, primarily, came from the mother. But there is that very blatant severing of the father-child bond in today's family courts very seriously being perpetrated by the children's aid societies, which, again, might be contributing to this issue of the increase of youth crime.

Mr. Irwin Elman from the office of the child advocate—and I would like to publicly acknowledge the very distinct improvement of service from that office since Mr. Elman was put in charge of it—

The Chair (Mr. Shafiq Qaadri): You have about a minute left, Mr. Carter, just to let you know.

Mr. Chris Carter: Sorry, sir.

He reported that contrary to what the Ministry of Children and Youth Services is alleging, his office was never consulted or involved in any true way in regard to the writing of Bill 103. I don't want to say that the Ministry of Children and Youth Services is being fraudulent by asserting that, in fact, they did involve his office, but there are many families who feel that once

they get into court, the children's aid societies are able to effect involvement with their families only because they are making repeated false statements in the affidavits which they provide to the court. There is a condition in the Child and Family Services Act which stipulates that the children's aid societies are supposed to act in good faith. They are not being held accountable. The individual workers—and I don't want to paint them all with the same brush—are not being held accountable.

The Chair (Mr. Shafiq Qaadri): Mr. Carter, first of all, I'd like to thank you for your presence and your passionate remarks. As you'll know, the committee is quite pleased to receive materials from you in writing, as I sense that you have much more to tell us. I'd like to thank you, but your time has now expired.

Mr. Chris Carter: Thank you.

1640

FOSTER CARE COUNCIL OF CANADA

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward: Mr. John Dunn, the executive director of the Foster Care Council of Canada. I understand it's by teleconference. Mr. Dunn, are you there?

Mr. John Dunn: Yes, I am.

The Chair (Mr. Shafiq Qaadri): That's great. You've seen the protocol: You have 20 minutes in which to make your combined presentation. I invite you to begin now.

Mr. John Dunn: As you know, I'm John Dunn, the executive director of the Foster Care Council of Canada, a non-profit organization made up of both current and former child welfare service clients and their supporters, whose mission statement reads as follows: "Involving current and former child-welfare service clients in the process of improving the quality and accountability of child-welfare services through a strong, united voice."

Our board of directors is composed of child welfare service stakeholders, including former crown wards who were moved through multiple placements throughout the majority of their childhood, as well as natural, first parents of children who have been in foster care, and other supporters from the community.

Before I get to the substantive portion of today's presentation regarding Bill 103, I just would like to provide the members of the committee with a brief background on the type of work the council is engaged in by summarizing a couple of our initiatives. This will help the members in understanding and putting into context the reasoning behind our recommendations for amendments to the bill during clause-by-clause meetings.

To start with, our annual Children's Aid Society Membership Awareness Campaign, which just began in 2008: A long list of government bodies and representatives have claimed for some time now that certain actions, inactions or decisions of children's aid societies are not within their jurisdiction to take corrective action over, since the societies, which are corporations without

share capital, also known as non-profit corporations, are autonomous bodies governed by what appears to be a community-elected board of directors. These standard, form responses from officials have left a gaping hole in the transparency and accountability of child welfare services in Ontario. The list of government bodies and representatives who have been paralyzed from taking corrective actions when necessary simply because of the legal structure of societies includes: the Ontario government, through both current and former Ministers of Children and Youth Services; their deputy ministers; the various regional office program directors, supervisors and other staff; the Ministry of Government Services; the Child and Family Services Review Board; as well as various municipal police services; the privacy commissioner's office; and several MPPs.

Since these government bodies and their representatives claim to be without jurisdiction over certain actions, inactions or decisions of children's aid societies, the office of the Ombudsman is consequently without jurisdiction as well, and as everyone is aware, this is no accident, since the ministry has been opposing Ombudsman oversight of the CAS for a while.

As a result of this gaping hole in transparency and accountability in child welfare services, the council, in the beginning of 2008, launched the annual Children's Aid Society Membership Awareness Campaign, which seeks to educate Ontarians about the fact that children's aid societies are non-profit corporations which offer regular annual memberships to people who work or live within the local community of a society as a way for citizens to hold their CAS's board of directors accountable. The relationship between the board of directors as members of a society and the regular members of a society is similar to the relationship between board members in a profit corporation and its shareholders. That relationship, including the parties' legal rights and obligations, are outlined both in the Corporations Act and each society's bylaws.

In connection with the campaign, the council has also advocated for increased transparency and accountability in child welfare through MPP Andrea Horwath's office, which resulted in the creation of private member's motion number 41, which seeks to have societies make public the fact that local citizens can attend their monthly CAS board meetings, apply for memberships and have access to the bylaws of each society.

As an early indicator of the potential for our annual Children's Aid Society Membership Campaign and related efforts to reach the public and inform them of how they themselves can advocate for increased transparency and accountability, the council has received reports from citizens across the province who have applied for but had their society membership applications denied. We also continue to receive reports of citizens who have laid private charges using section 23 of the Provincial Offences Act, without the assistance of police or the cost of lawyers, against societies who have spent ministry-allocated transfer payment funds on external

legal counsel to assist them in violating the offencecreating provision of Ontario's Corporations Act, subsection 307(5). The societies do so in their attempt to prevent those citizens from exercising their rights, as they exist under the statute, to advocate for positive changes within their respective societies to the existing, often select, members.

Another indicator of the potential outcomes of the council's efforts in this regard is the fact that Children's Aid Society of Ottawa, in what appears to be a response to our efforts for increased transparency and accountability, through the aforementioned method, has drafted and approved an internal position paper on transparency and governance, which will be added to the society's board manual. The society will not provide public access to the position paper; however, they will provide the public with a related brochure. The society's executive director stated in relation to the position paper during a meeting of the board, in which I attended, that the minutes of the meetings and other related documents will have to be "sanitized for public consumption."

Some other initiatives—and this is just a quick list—that the council has engaged in include guiding and supporting former foster children to and through the process of applying for Criminal Injuries Compensation Board claims in response to abuse or neglect they suffered both before and while living in foster care or youth justice placements or places of custody; making submissions and suggestions to the various committees and MPPs within the Legislative Assembly in connection with existing and proposed child-welfare-related legislation and more.

Now moving on to the matter before the committee, which is Bill 103, given the limited amount of preparation time the council had to officially discuss the bill between the passing of second reading and public hearings, the council would like to specifically address section 8 of the bill.

To start, I'll read a quick paragraph of a letter I sent to an MPP regarding the bill, and it reads as follows: "I am deeply concerned about the proposed subsection 8 of Bill 103, which if left as-is would be the first step in eroding Canada's well-established solicitor-client privilege which exists in the legal community across the country by allowing communications between solicitors and their youth clients to be opened at the whim of a service provider or" a member of "the service provider's staff."

The council is concerned that there are no guidelines in the legislation which either define what "articles" are to be deemed physically or emotionally harmful to a child or a youth in care or custody, and that it's up to the service provider to determine what articles are prohibited without any ministerial approval of such lists of prohibited articles. The bill also says that a service provider can intercept articles—or open mail—from the child or youth's mail, "where the service provider believes on reasonable grounds that the contents of the written communication may cause the child physical or emotional harm."

I've heard many, many stories for years now where parents who are visiting their children or youth in care during supervised visits at the society's offices are told by society staff that they're not allowed to tell their children they love them; they're not allowed to ask questions as to how they're doing in school or any other expressions which might show their child that they are loved by their parents, regardless of the fact that at present, they can't be together.

Over time, these children and youth are led to believe that they are not loved by family, as the societies and many of their workers have determined on their own that it is emotionally harmful to a child to discuss such things. I've even heard of situations where children in care have had court-ordered access to their families, as left to the discretion of the society, completely eliminated by the society for years, and families in such situations who have mailed pictures to their children in care with phone numbers on the back have had them removed from being received by the child because the agency or the home decided that they would be harmful.

The proposed legislation also states that the intercepted mail must be opened in the young person's presence, the purpose of which, I assume, is to let the child at least be aware of the fact that they are getting mail, but that parts of it have been removed in the interests of their safety and emotional well-being.

If you take a look at section 98 of the subordinate Ontario regulation number 70, it states that, "Every licensee shall ensure that, where under subsection 103(3) of the act, mail is opened or an article removed from mail to a resident who is in a residence operated by the licensee, the reason for opening the mail or removing the article is noted in the resident's case record." The subordinate regulation, which is unknown to most families, friends and advocates of children and youth in care or custody, and possibly even members of this committee, let alone the children and youth who are directly affected by it, is unable to ensure that service providers are held accountable when they fail to follow the prescribed legislation for opening mail to a child in care or custody.

1650

Also, the way the bill is worded under subsection 8(4), it is extremely dangerous in that, first, it allows for the violation of solicitor-client privilege, and second, it allows the service providers to determine by their own internal policy what they deem prohibited. If youth in care or custody were to be reporting institutional abuse, this communication could be intercepted, including any response from the youth's solicitor, as long as the service provider deemed such communication to be prohibited according to their own internal policies, something which can easily be abused without any oversight or independent approval of what is or could be deemed prohibited.

As a glaring example of the potential which exists for service providers to abuse such unbridled authority as being able to determine internally what may be harmful to a child in care or custody, the Ministry of Children and Youth Services itself, which is supposed to be the monitoring body, which establishes guidelines for service providers to follow, has itself recently been brought to court by the newly independent chief Provincial Advo-

cate for Children and Youth, Irwin Elman, because the ministry, of all trusted bodies, has been withholding abuse reports from his office, and in the meantime, turning around and telling the media that, "It is the ministry's desire to be as open and transparent as possible, while respecting the privacy provisions intended to protect the privacy of our children and youth."

Similar abuses of authority are rampant in children's aid societies, which are service providers as defined in the act, when they refuse to give copies of former foster children's records even to them when they ask, without having to spend countless hours and dollars going

through long legal battles.

Serious occurrence reports or abuse reports, which detail the abuse of children and youth in care and custody, among other things, are created and maintained by service providers and societies, and then copies are filed with the ministry. Societies and the ministry simply do not provide any access to them for former wards. This is supposedly done, according to the societies, in the best interests of the adults who are seeking access to their own records. Also, since neither federal nor provincial privacy legislation applies to societies in Ontario, former wards are totally out of luck in their attempts to obtain copies of their own records.

Further exacerbating this issue for former wards is the fact that even sections 184 to 191 of the Child and Family Services Act, which appear to have been proposed to regulate access to child welfare records by former wards and others, have never, at any time since the act's passing decades ago, been proclaimed into

force.

In summary, the council recommends to the members

of the committee the following three points.

(1) That section 98 of Ontario regulation 70 be repealed and added as a new provision to section 8 of Bill 103, with more up-to-date modifications which would also include requirements that the service providers, when removing articles prohibited from written communications, also be required to give ministry-approved written instructions to the child or youth involved which will inform them of how to obtain copies of the removed articles once they are no longer receiving child protection or youth justice services.

I hope that was somewhat clear, but I'll move on to (2)

and ask for questions later.

(2) The council is asking that offence-creating provisions be added to the end of section 8 of the bill pertaining to the section—or, in the alternative, in answer to the lack of external oversight for child welfare in Ontario, added to the end of the Child and Family Services Act, encompassing the entire act for all of its provisions, so that anyone can hold service providers accountable in child welfare matters through the much-easier-to-navigate section 23 of the Provincial Offences Act, which enables citizens to lay private charges where approved by a justice of the peace.

(3) That the bill include a set of guidelines as to what is to be deemed emotionally or physically harmful to a

child in care.

It is the sincere wish of the Foster Care Council of Canada that neither the Ministry of Children and Youth Services nor any of the members of the Legislative Assembly of Ontario become—the first province in Canada to begin down the slippery slope of eroding solicitor-client privilege, since other provinces are closely watching what goes on in this Legislature.

Thank you for your time, and I'm free to answer any questions the members may have, or you could contact

me through our website, afterfostercare.ca.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dunn. We've got a minute and a half per side, beginning with the government.

Mrs. Maria Van Bommel: Thank you very much, Mr. Dunn, for very thorough presentation. I have no questions at this time.

The Chair (Mr. Shafiq Qaadri): To the PC side.

Mrs. Julia Munro: Thank you very much, Mr. Dunn, for providing us with this overview. Am I correct—obviously, through Hansard, we'll get the information that you provided—but certainly, we'll look very carefully at the three recommendations that you have suggested here today.

The Chair (Mr. Shafiq Qaadri): Now to Ms.

Horwath.

Ms. Andrea Horwath: Hi, John; it's Andrea Horwath speaking. I wanted to ask you about your last comments, when you said that it's a slippery slope and Ontario would be the first province. Can you explain that a little bit more?

Mr. John Dunn: Well, I just mean the fact that, I believe it's clause 8(4)(c) that talks about allowing group homes, foster homes—or I guess it's the youth justice homes and residential places, or whatever they're called—to open the mail between solicitors and clients; in other words, the youth in the homes and/or their lawyer.

As far as I know, in Canada this is one of the highest privileges that exists in all communities, let alone the legal community. If it starts happening here in Ontario under the guise of youth justice, I'm afraid of where it might go. If other provinces are watching, I'm afraid that they might just start to say, "Okay, you know, now we have a provision in an act in Ontario," and that can sort of set a precedent for others to follow in other areas, which is pretty scary.

Ms. Andrea Horwath: Thank you.

The Chair (Mr. Shafiq Qaadri): You've concluded your questions, Ms. Horwath?

Thank you, then, to the members of the committee and

to you, Mr. Dunn, for your presentation.

Just before we adjourn, I would inform committee members that, as you know, the administrative deadline for filing amendments with the clerk is Thursday, December 4 at 5 p.m., and clause-by-clause consideration of the bill is scheduled for Monday, December 8. Is there any further business before the committee?

Seeing none, committee is adjourned. *The committee adjourned at 1656.*





STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke–Lakeshore L)
Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)
Ms. Cheri DiNovo (Parkdale–High Park ND)
Ms. Helena Jaczek (Oak Ridges–Markham L)

Mr. Dave Levac (Brant L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)
Mr. Khalil Ramal (London-Fanshawe L)

Ms. Laurie Scott (Haliburton-Kawartha Lakes-Brock PC) Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Ms. Andrea Horwath (Hamilton Centre / Hamilton-Centre ND)
Mrs. Julia Munro (York-Simcoe PC)
Mrs. Maria Van Bommel (Lambton-Kent-Middlesex L)

Clerk / Greffier Mr. Katch Koch

Staff / Personnel

Ms. Margaret Drent, research officer, Research and Information Services

CONTENTS

Monday 1 December 2008

Subcommittee report	SP-475
Child and Family Services Statute Law Amendment Act, 2008, Bill 103, Ms. Matthews /	
Loi de 2008 modifiant des lois en ce qui concerne les services à l'enfance	
et à la famille, projet de loi 103, M ^{me} Matthews	SP-476
Ministry of Children and Youth Services	SP-476
Hon. Deborah Matthews, minister	
Office of the Provincial Advocate for Children and Youth	SP-478
Mr. Irwin Elman, Provincial Advocate for Children and Youth	
Mr. David Witzel	SP-481
Defence for Children International-Canada	SP-483
Mr. Les Horne; Mr. Matthew Geigen-Miller	
Youth Services Bureau of Ottawa	SP-486
Mr. Alex Munter	
Justice for Children and Youth	SP-488
Ms. Lee Ann Chapman	
Mr. Chris McCallum	SP-491
Mr. Chris Carter	SP-492
Foster Care Council of Canada	SP-494
Mr. John Dunn	



SP-20

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Monday 8 December 2008

Standing Committee on Social Policy

Child and Family Services Statute Law Amendment Act, 2008

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Lundi 8 décembre 2008

Comité permanent de la politique sociale

Loi de 2008 modifiant des lois en ce qui concerne les services à l'enfance et à la famille



Président : Shafiq Qaadri Greffier : Katch Koch

Chair: Shafiq Qaadri Clerk: Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services Room 500, West Wing, Legislative Building 111 Wellesley Street West, Queen's Park Toronto ON M7A 1A2 Telephone 416-325-7400; fax 416-325-7430 Published by the Legislative Assembly of Ontario





Service du Journal des débats et d'interprétation Salle 500, aile ouest, Édifice du Parlement 111, rue Wellesley ouest, Queen's Park Toronto ON M7A 1A2 Téléphone, 416-325-7400; télécopieur, 416-325-7430 Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 8 December 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 8 décembre 2008

The committee met at 1436 in committee room 1.

CHILD AND FAMILY SERVICES STATUTE LAW AMENDMENT ACT, 2008 LOI DE 2008 MODIFIANT DES LOIS EN CE QUI CONCERNE LES SERVICES À L'ENFANCE ET À LA FAMILLE

Consideration of Bill 103, An Act to amend the Child and Family Services Act and to make amendments to other Acts / Projet de loi 103, Loi modifiant la Loi sur les services à l'enfance et à la famille et apportant des modifications à d'autres lois.

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, I'd like to call the meeting of the Standing Committee on Social Policy to order. As you know, we're here for clause-by-clause consideration of Bill 103, An Act to amend the Child and Family Services Act and to make amendments to other Acts.

I would now invite any opening comments, gestures of reconciliation or coalition, as the case may be, before we begin the consideration of the clauses.

Seeing none, if there are no amendments coming forward for sections 1 and 2, we'll do block consideration of those. Those in favour of sections 1 and 2, as is? Those against? Sections 1 and 2 passed, as is.

We'll now have our first clause presented by the NDP. Motion 1.

Ms. Andrea Horwath: I move that subsection 3(4) of the bill, setting out subsection 90(3.1) of the Child and Family Services Act, be struck out.

The amendment removes the clause that grants the ministry employees or other designates powers of a peace officer. The reason for the amendment is that there should not be expanded power of peace officers given in a blanket way, the way this clause suggests. Regardless of the training and the role of staff working with children, it should not be blurred with that of an officer.

The Chair (Mr. Shafiq Qaadri): Comments? Replies?

Mrs. Maria Van Bommel: I certainly cannot agree with this particular motion. It is the intent that under the designation of peace officers, they would only be designated as peace officers within the confines of their job description. There may have been some concerns around things such as peace officers carrying weapons, but service providers in the youth justice system don't carry

weapons, so it's not that the peace officer designation would present any danger to children and youth. But it certainly is something that in some instances may be necessary for protection of the child. In the system, as it is now, when a child or youth were to, say, be escorted out, the service provider may not have a way of restraining or keeping that child close to them; whereas, as a peace officer, if the child were to, say, ask to go to the washroom, they would be able to keep them close to them. That may be necessary in some situations, where we need to be able to do that.

In terms of the safety of service providers and what they may need to enforce, we also have situations where service providers are attacked. Service providers, as they are now, would not be able to take any action. They can call the police, but they can't take any action to restrain the individual. As peace officers, they would be able to do that. So we feel that it's still important for the designation of "peace officer" to be there.

The Chair (Mr. Shafiq Qaadri): Any further comments or questions before we proceed?

Those in favour of NDP motion 1? Those opposed? I declare NDP motion 1 to have been lost.

Shall section 3 carry, as is? Carried.

Shall section 4 carry, as is? Carried.

We'll now proceed to the next motion: NDP motion 2 on section 5.

Ms. Andrea Horwath: I move that subsection 5(1) of the bill, setting out subsection 93(2) of the Child and Family Services Act, be struck out and the following substituted:

"5.(1) Subsections 93(1) and (2) of the act are repealed and the following substituted:

"Open and secure detention

"Initial open detention

"93.(1) A young person who is detained under the federal act or the Young Offenders Act (Canada) shall initially be detained in a place of open temporary detention and shall only be moved to a place of secure temporary detention in accordance with subsections (2) and (2.1)

"Where secure detention available

"(2) A provincial director may detain a young person in a place of secure temporary detention only if the provincial director is satisfied that,

"(a) it is necessary to do so in order to ensure the young person's attendance in court; or

"(b) it is necessary to do so in order to ensure public safety.

"Alternatives to secure detention

"(2.1) In making a determination under subsection (2), the provincial director shall consider all alternatives to secure temporary detention that are reasonable in the circumstances and shall only make an order for secure temporary detention if there is no alternative, or combination of alternatives, to secure temporary detention."

The Chair (Mr. Shafiq Qaadri): Are there any further comments you'd like to make, Ms. Horwath?

Ms. Andrea Horwath: This amendment was drafted and is under your consideration, to the committee members, because we do not believe that young offenders should be treated the same way as adults. This section borrows language that is used in the adult system. Custody itself, we know, is a disruptive and traumatic experience and can have extremely negative consequences for young people down the line. That's why it's extremely important to address the issue of detention in a reasonable and thought-out way. So keeping in mind the principles of the Youth Criminal Justice Act of least—and I emphasize "least"—intrusive means, open detention should be the first point of entry into the system.

We also have to include provisions which take into consideration where secure detention may be used in instances where there is a need to ensure a young person appear in court or where it's necessary in the name of public safety, absolutely. But the amendment before the committee is one that draws on recommendations from submissions that were made by the Provincial Advocate for Children and Youth as well as Justice for Children and Youth, and I hope the committee will consider that.

In her opening remarks when introducing this bill, the minister did talk about trying to create a system that was beneficial for young people in the criminal justice system. I believe that this amendment is in tune with that emotion or at least that intended framing that the minister put forward. I ask the committee members to consider supporting it.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Horwath. Mrs. Van Bommel.

Mrs. Maria Van Bommel: We have particular concerns with this motion because it assumes every child or youth in conflict with the law would be put into open custody immediately, and there's no regard in the motion for the risk or the types of charges that this individual may be faced with. We feel that the provincial director would be the most appropriate one to deal with this, should there be a question of that.

Currently, what happens is that an assessment is made when an individual is charged. The presumption under the Child and Family Services Act is that we would deal with it in open custody. Nevertheless, there should be the option, if it's necessary, for the child to be put into secure custody, should it be for their own safety or for the safety of others in the open-custody area. There are any number of possibilities, but certainly, we absolutely agree with you that the intent of this act, and the amendments to the

act, is to take youth out of the adult system and to treat them differently. That's what we want to do. We're transforming the youth justice system so that we treat them differently; we give them better opportunities.

But there still needs to be an opportunity, if necessary, to put an individual into secure custody. As I said, that could be for their safety; it could be for the safety of others. The provincial director would probably be the best person to make that decision.

The Chair (Mr. Shafiq Qaadri): Yes, Ms. Horwath.

Ms. Andrea Horwath: I respect the comments made by the parliamentary assistant, but I have to say two things that I think are very clear. One is that the language the government chose to use in fact does reflect more the adult criminal justice system. That's why I put the amendment forward.

The other issue to keep in mind is that my amendment does allow for the very things that Mrs. Van Bommel is talking about, in terms of public safety and in terms of ensuring that the young person is going to attend in court. But what my amendment does is actually speak to the issue in the language that we think is more appropriate when we're dealing with young people—what the government purports is their motivation or their framework, but in fact it does not ring true when you look at the language that they've provided in the bill. That's why this kind of language is more reflective of that sentiment, and I see no reason why—I mean, we can't assume, if someone is charged, that they're guilty. It's disturbing to me that that is the kind of explanation we get from the parliamentary assistant, that, depending on their charges, assumes they're guilty of those charges. That's very disconcerting to put on the record in this committee hearing.

However, the reality is that the amendment I put forward is one that is much more in line with the idea that this is about youth, young people, not adults, and that the principle of "least intrusive means" in the Youth Criminal Justice Act is the one that's supposed to be guiding or should be guiding the government's hand, in my opinion, respectfully.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mrs. Maria Van Bommel: Again, I want to absolutely—everyone is innocent until proven guilty. I don't disagree with the member in any respect in that way. But the motion, as put forward, does not take into account the risk in terms of charges, or risk to people who are within the open custody, or risk to the individual, should they go into open custody. We need that flexibility to be able to make those decisions. I think that the provincial director certainly is the appropriate person to make those decisions and needs to have that flexibility.

But automatically putting them into open custody, I think, in some situations may be more risky and create danger, not only for the child who is in conflict with the law but possibly for those other children who are in open custody already.

Ms. Andrea Horwath: I really don't want to belabour the point. I mean, it's really clear that the government is going to win all of these debates by virtue of numbers. I find it frustrating that the deputants that we heard, almost every single one, talked about the effect of secure custody, talked about the impact on young people of that experience—it's my belief that if we're truly transforming the youth justice system, we should be transforming it in a way that does create those positive opportunities and outcomes for young people so that they can change course. What the government insists on doing in this particular piece of the bill is the exact opposite. I find that extremely troublesome. But I will leave my comments at that, as it's obvious that this is going to pass, with the government's votes, anyway.

1450

The Chair (Mr. Shafiq Qaadri): Any further comments regarding NDP motion 2? If not, we'll proceed to the vote.

Ms. Andrea Horwath: Recorded vote, please.

Ayes

Horwath.

Nays

Broten, Jaczek, Levac, Munro, Ramal, Shurman, Van Bommel.

The Chair (Mr. Shafiq Qaadri): NDP motion 2 is defeated.

We'll proceed to NDP motion 3.

Ms. Andrea Horwath: I move that subsections 93(7) and (8) of the Child and Family Services Act, as set out in subsection 5(2) of the bill, be struck out and the following substituted:

"Application for return to secure temporary detention

- "(7) A provincial director may apply to a youth justice court for a review of an order directing that a young person be transferred to a place of open temporary detention under subsection (6) only on the basis that the director is satisfied that secure temporary detention is necessary,
- "(a) in order to ensure the young person's attendance in court; or
 - "(b) in order to ensure public safety.

"Same

"(8) The youth justice court conducting a review of an order transferring a young person to a place of open temporary detention may confirm the court's decision under subsection (6) or may direct that the young person be transferred to a place of secure temporary detention and subsection (2.1) applies, with necessary modification, to the court's determination."

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Horwath. I understand that I am now to inform the committee that NDP motion 3 is in fact officially out of order because it depended for its life on subsection (2.1), the previous motion, which as you know has been defeated. So I rule NDP motion 3 out of order.

We will now proceed to consideration of section 5, as is. Those in favour of section 5? Those opposed? Section 5 is carried.

We will now go to section 6. NDP motion 4. Ms. Horwath.

Ms. Andrea Horwath: I move that section 98.1 of the Child and Family Services Act, as set out in section 6 of the bill, be amended by striking out subsection (2) and substituting the following:

"Unannounced inspections

"(2) An inspector may undertake unannounced inspections on his or her own initiative.

"Unrestricted access

"(3) An inspector shall have unrestricted access to all persons employed by or working in every youth justice facility and to all young people and records in such facilities.

"Inspector's report

"(4) An inspector shall submit a report of the findings of an inspection, including an evaluation of the compliance of the youth justice facility with the laws of Ontario and with any licensing requirements and recommendations with respect to any steps that are necessary in order to ensure compliance.

"Dismissal for cause for obstruction, etc., of inspection

"(5) Any person employed by the ministry or by a service provider who obstructs an inspection or investigation or withholds, destroys, conceals or refuses to furnish any information or thing required for purposes of an inspection or investigation may be dismissed for cause from employment.

"Offence

"(6) Any person who obstructs an inspection commits an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment to a term of not more than six months, or to both.

"Investigations completed as soon as possible etc.

"(7) An investigation under this section shall be completed as soon as possible after it is started and the investigation report shall be provided, without delay, directly to the office of the Provincial Advocate for Children and Youth."

If I could just give a brief explanation, I think that what this amendment seeks to do is pretty apparent, which is to provide increased oversight and accountability to the proposed inspections and investigations that are set out in the bill.

The bill as it is drafted, as the government provides, only applies to ministry staff in direct ministry-operated facilities. The duty to comply with investigations should exist for all employees who work in youth justice facilities directly operated or otherwise operated.

Furthermore, obstructing an inspection must be made a punishable offence. There is no reason at all why any investigation should be obstructed in any way, and we have to make it clear that that's not acceptable.

The standards for inspection of youth justice facilities that are set out in the United Nations Rules for Protection of Juveniles Deprived of their Liberty served in part as the inspiration for this amendment, as was of course also mentioned by DCI.

In addition, it needs to be made clear that investigations must be time-limited. We can't have investigations dragging on forever and ever, because the issue is the information that's required to be submitted as well as the safety of children and youth. Investigation reports have to be provided promptly and directly to the office of the Provincial Advocate for Children and Youth.

We've just been through this fiasco here in the province of Ontario; we've just seen the advocate for children and youth in this province stonewalled by the government, by the ministry, not getting the information that the child and youth advocate requires to be able to fulfill his function or the function of his office in terms of protecting the interests of children and youth. Therefore it has to be very clear in the legislation that no one has the right to stonewall or prevent information from getting to the Provincial Advocate for Children and Youth, so that that office can do its appropriate job that was given to that office by the Legislative Assembly of this province.

Young people's allegations of harm or mistreatment must be received with the greatest seriousness and must be followed with swift and thorough investigation. The protection of the young person who made the complaint and others potentially affected should be the most important priority. That's why these changes are recommended.

The amendment draws, of course, on the submissions that we heard from the advocate for children and youth as well as Defence for Children International-Canada. I hope that the committee members will consider supporting this amendment.

The Chair (Mr. Shafiq Qaadri): Comments or replies to NDP motion 4?

Mrs. Maria Van Bommel: Currently, under the CFSA, any licensing provisions or granting of licence requires inspection. The member talked about ministry-operated facilities, but also transfer partners are required by legislation to undergo inspections. So, at minimum, the inspections would be done on an annual basis. In terms of the inspection itself, that is done throughout the system.

The issue of things such as, in particular the provincial child advocate—I'm sure the member is aware that the advocate has withdrawn his court action. The ministry is now working with him to establish an information protocol. When the term "without delay" is used here, there is no recognition of the fact that we are required by law to have the permission of youth to release information to the child advocate. There are still privacy provisions that these young people are entitled to, and that needs to be respected. So, because the motion doesn't address the privacy issues of the child, it just simply says that the report must be submitted to the advocate "without delay," I certainly can't vote in favour of the motion.

Ms. Andrea Horwath: I just want to make sure it's on the record that it's very clear in the act itself what the

privacy requirements are and how the privacy of the youth are covered off. So notwithstanding that the government needs to put on the record its arguments, the reality is, and everybody knows it, that the act already clearly sets out the protocols for privacy and for youth sign-off in this regard.

Again, I would hope that the government has learned a lesson in terms of the way they're dealing with the advocate for children and youth. Having said that, I do believe that the best place to make sure that the advocate for children and youth gets the kinds of information that he needs to act as quickly as possible would be to have this amendment pass so that we know that it's not a whim of ministry staff or anybody else, but it's actually set out in legislation what the requirements are in terms of the provision of information.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Seeing none, we'll proceed to consider NDP motion 4. Those in favour? Those opposed? I declare NDP motion 4 to have been defeated.

We'll now proceed to consider PC motion 5.

Mrs. Julia Munro: I move that section 98.1 of the Child and Family Services Act, as set out in section 6 of the bill, be amended by adding the following subsection:

"Report to Provincial Advocate for Children and Youth

"(3) Investigation reports shall be provided directly to the office of the Provincial Advocate for Children and Youth upon request."

1500

The Chair (Mr. Shafiq Qaadri): Any further comments from any side?

Mrs. Maria Van Bommel: Again, the issue is the protection of the privacy of the children involved in this.

Mrs. Julia Munro: I'm sorry, could you just repeat the last part? I didn't hear it.

Mrs. Maria Van Bommel: Again, the issue is the time that is needed to make sure that the protocols for the privacy of the individuals are respected.

Mrs. Julia Munro: I would just add that this does not preclude that. This simply suggests that they would be provided upon request. There's no indication there in terms of what has to take place prior to that request being met. It's a commitment to make sure that those reports are, in fact, made available to the office of the Provincial Advocate.

Mrs. Maria Van Bommel: I think I still would say that we are working through the ministry with the advocate in establishing a protocol, and I think I feel more comfortable in having that protocol in place and dealing with it that way. I'm not sure that this is actually even within the scope of the bill, because it's dealing with the child advocate. There is an act that sets out the procedures for the child advocate, and maybe this would be better dealt with within that act.

Mrs. Julia Munro: I find that argument interesting, given the fact that the drafters of the legislation—that is, the government—included the parts of the advocate bill

that they chose to in this act. So I'm assuming that in taking into this act, Bill 103—there's the assumption, by making those changes to the child advocate bill, that by the same token, you could consider the motion that is made here and the fact that obviously it deals with germane parts of the advocate bill that have been put into this Bill 103.

Mrs. Maria Van Bommel: You mention that the child advocate—in particular, section 28, referring to the child advocate, and it's definitions that are dealt with. So it's not talking about the authority of the advocate or any such thing; it's simply dealing with the issues of definitions, so that we have consistency in definitions of "youth."

Mrs. Julia Munro: I don't want to prolong this any further, but I would just suggest that the importance here is the intent that the office of the Provincial Advocate will in fact receive reports. Naturally, given the shifting sands of discussion between the provincial advocate and the government over highlights of this particular bill we're discussing, it seems to me that it would be an appropriate opportunity for the government to demonstrate that commitment to making those changes by considering this particular amendment.

The Chair (Mr. Shafiq Qaadri): Any further questions or comments? Seeing none, we'll proceed to consider PC motion 5.

Ms. Andrea Horwath: Recorded vote.

Ayes

Horwath, Munro, Shurman.

Nays

Broten, Levac, Ramal, Van Bommel.

The Chair (Mr. Shafiq Qaadri): PC motion 5 is defeated.

Shall section 6, as is, carry? Carried.

Shall section 7 carry, as is? Carried.

We'll proceed now to section 8 and PC motion 6. Mrs. Munro

Mrs. Julia Munro: I move that subsection 103(3) of the bill, as set out in subsection 8(2) of the bill, be struck out and the following substituted:

"Opening, etc., of written communications to child

"(3) Subject to subsection (4), written communications to a child in care.

"(a) subject to clause (e), may be opened by the service provider or a member of the service provider's staff in the child's presence and may be inspected for articles prohibited by the service provider;

"(b) subject to clauses (c) and (e), may be examined or read by the service provider or a member of the service provider's staff in the child's presence, where the service provider believes on reasonable grounds that the contents of the written communication may cause the child physical or emotional harm; "(c) shall not be examined or read by the service provider or a member of the service provider's staff if it is to or from the child's solicitor;

"(d) shall not be censored or withheld from the child, except that articles prohibited by the service provider may be removed from the written communication and withheld from the child; and

"(e) shall not be opened, inspected, examined or read by the service provider or a member of the service provider's staff if the written communication is to or from the Ombudsman or a member of the Ombudsman's staff.

"Communication to Ombudsman

"(3.1) Any written communication from a child in care to the Ombudsman or a member of the Ombudsman's staff shall be immediately forwarded, unopened, by the service provider."

The Chair (Mr. Shafiq Qaadri): Any further comments? Mrs. Van Bommel?

Mrs. Maria Van Bommel: Did you want to comment on it, Julia?

Mrs. Julia Munro: No, go ahead.

The Chair (Mr. Shafiq Qaadri): You have the floor, Mrs. Van Bommel.

Mrs. Maria Van Bommel: As you would be aware, we've also addressed this particular issue with a motion of our own. I think when your motion talks about the Ombudsman or a member of the Ombudsman's staff, currently it is already required under the Ombudsman Act that all written communication to children from the Ombudsman or to the Ombudsman is to remain unopened. That is currently in legislation under the Ombudsman Act. So I think that it's really not necessary to have that entrenched in this legislation because it already exists

Mrs. Julia Munro: I guess the issue that was raised by many was the question of a clearer indication of what opportunities in law would be available to individuals within this kind of situation, where they need to be clear about what kind of communication is allowed and what is not. This motion simply speaks to the clarification, of making communication clearer, in terms of what's going to be allowed and what's not.

The Chair (Mr. Shafiq Qaadri): Any further comments? Ms. Horwath?

Ms. Andrea Horwath: I'll just make a quick comment. Something tells me that this is not going to pass, but I actually have an amendment as well along similar lines and I look forward to having further conversations when I raise it.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 6, if any? Those against? I declare PC motion 6 to have been lost.

I'll now invite NDP motion 7.

Ms. Andrea Horwath: I move that subsection 103(3) of the bill, as set out in subsection 8(2) of the bill, be struck out and the following substituted:

"Opening, etc., of written communications to child

"(3) Subject to subsection (4), written communications to a child in care,

"(a) subject to clause (e), may be opened by the service provider or a member of the service provider's staff in the child's presence and may be inspected for articles prohibited by the service provider;

"(b) subject to clauses (c) and (e), may be examined or read by the service provider or a member of the service provider's staff in the child's presence, and may be with-

held from the recipient in whole or in part,

"(i) where the service provider believes on reasonable grounds that the contents of the written communication may cause the child physical or emotional harm, or

- "(ii) where the service provider or the member of their staff believes on reasonable grounds that the contents of the written communications may contain communications that are prohibited under the federal act or by court order:
- "(c) shall not be examined or read by the service provider or a member of the service provider's staff if it is to or from the child's solicitor;
- "(d) shall not be censored or withheld from the child, except that articles prohibited by the service provider may be removed from the written communication and withheld from the child; and

1510

"(e) shall not be opened, inspected, examined or read by the service provider or a member of the service provider's staff if the written communication is to or from the Ombudsman or a member of the Ombudsman's staff.

"Communication to Ombudsman

"(3.1) Any written communication from a child in care to the Ombudsman or a member of the Ombudsman's staff shall be immediately forwarded, unopened, by the service provider.

"Physical or emotional harm

"(3.2) For the purposes of subclause (3)(b)(i), physical or emotional harm means physical or emotional harm as prescribed by regulation.

"Return of objects

"(3.3) A service provider that removes an object that is sent to a child in care under clause (3)(a) or (d) shall provide instructions to the child, as approved by the ministry, indicating that the child may obtain the object once he or she is no longer receiving child protection services."

I think it's pretty clear what the purpose of this amendment is. It provides for the ability to send and receive communication and sees that as a right, including a right of children who are in custody. Communication has to be, as much as possible, not tampered with, and left unopened and unread, particularly in instances where it concerns solicitor-client privilege, the office of the Provincial Advocate for Children and Youth and the Ombudsman

In cases where there is a need seen for the communication to be opened or inspected, it has to be seen in the context of potential illegality or potential physical or emotional harm to the young person. There has to be, in other words, a reason that this communication is being tampered with.

Any objects that are removed from a young person's communication in care, a service provider shall ensure that the young person is given complete instructions to retrieve these items once they have left care. Again, this is the issue of providing young people what is rightfully theirs after they leave the situation.

The other issue is the section of the bill in particular that deals with communications to young people. We heard very clearly that there were concerns, both from the Ombudsman and from Justice for Children and Youth, in terms of solicitor-client privilege. I would ask that the government members consider supporting this amendment.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Horwath. Mrs. Van Bommel?

Mrs. Maria Van Bommel: At the outset, I want to say we agree with motions 6 and 7 and the spirit in which they're intended. But I think if we refer forward to motion 10, you'll see that we very clearly state that there are others to which this would be applied, in terms of the exemption of opening mail, not just to the Ombudsman and the advocate.

Also, in this particular motion, the returning of objects is a bit of a concern because it seems to imply that the child could get all objects back and it doesn't say anything about if those objects were illegal substances of some kind. If a child comes out of protection and the object that was taken away was an illegal substance or an illegal object of some type, would that mean that the child would then be able to get that item?

Ms. Andrea Horwath: I appreciate the comments the parliamentary assistant raises, although I think it's pretty apparent that anything that is illegal and seized as being an illegal item is not something that would be returned to the child.

However, there are other things that perhaps would be confiscated, even things like written documents, letters, those kinds of things, and I don't believe that the child should forever be without receipt of those things, which might have been withheld for some reason or another, forever. I think that's inappropriate and that's why this is before us.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Those in favour of NDP motion 7? Those opposed? I declare NDP motion 7 to have been defeated.

NDP motion 8. Ms. Horwath?

Ms. Andrea Horwath: Mr. Chair, just for clarification, will this one be considered out of order, or is it in order to bring it forward?

Mr. Dave Levac: You can withdraw it.

Ms. Andrea Horwath: I'm sorry?

Mr. Dave Levac: You can withdraw it.

The Chair (Mr. Shafiq Qaadri): It's in order: Proceed.

Ms. Andrea Horwath: I move that subsection 103(4) of the Child and Family Services Act, as set out in subsection 8(3) of the bill, be amended by striking out clauses (b), (c) and (d) and substituting the following:

"(b) may be examined or read by the service provider or a member of the service provider's staff in the presence of the young person and may be withheld from the recipient in whole or in part where the service provider or the member of their staff believes on reasonable grounds that the contents of the written communications may contain communications that are prohibited under the federal act or by court order;

"(c) shall not be examined or read under clause (b) if it

is to or from the young person's solicitor;

"(d) shall not be opened and inspected under clause (a) or examined or read under clause (b) if it is from a person described in subclause (1)(b)(ii), (iii) or (iv); and

"(e) shall not be opened or inspected under clause (a) or examined or read under clause (b) if it is to the Ombudsman or a member of the Ombudsman's staff."

Again, I think it's pretty straightforward that this would provide the right to communication, and the fact that young persons in custody have the right to have their ability to communicate and their privacy protected.

The Chair (Mr. Shafiq Qaadri): Mrs. Van Bommel.

Mrs. Maria Van Bommel: We certainly agree that an amendment is needed to protect the communication rights of youth. Again, I refer everyone to motion 10. I find that this motion is too narrow in its criteria in respect to written communications. I think where there is concern about the best interests of the young person, public safety, or the safety and security of the facility, there needs to be the opportunity for service providers to make that judgment in terms of what should be opened and in front of the child. Certainly, there are situations, such as the opportunity to maybe contact a victim or a victim's family before the person is brought to court, and an opportunity to have a court order restricting that kind of access is there. So I think it's important that service providers have a broader opportunity to make that judgment.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to consider NDP motion 8. Those in favour? Those opposed? NDP motion 8

defeated.

PC motion 9. Mrs. Munro.

Mrs. Julia Munro: Given that the previous motion has been defeated and mine is (e)—it's the same one—I would just say that I would withdraw it, given that it has been defeated in part of the earlier motion.

The Chair (Mr. Shafiq Qaadri): Government motion

10. Mrs. Van Bommel.

Mrs. Maria Van Bommel: I move that clauses 103(4)(c) and (d) of the Child and Family Services Act, as set out in subsection 8(3) of the bill, be struck out and the following substituted:

"(c) shall not be examined or read under clause (b) if it

is to or from the young person's solicitor; and

"(d) shall not be opened and inspected under clause (a) or examined or read under clause (b) if it is to or from a person described in subclause (1)(b)(ii), (iii) or (iv)."

The Chair (Mr. Shafiq Qaadri): Any further com-

ments, questions, queries?

Mrs. Maria Van Bommel: What this particular motion does is, it allows that written communications to or from the office of the Provincial Advocate for Children

and Youth, Ombudsmen, MPPs or MPs, not be opened, examined or read.

The Chair (Mr. Shafiq Qaadri): Mr. Levac.

Mr. Dave Levac: From some of my experience of four years in this portfolio, sitting on the other side, I share with you some of the concerns that I heard in the previous motions. The spirit of what was being looked for is admirable, but what I discovered while I was inside those places—visiting, by the way. I came across some examples that were shared with me by the superintendents and the management—within the scope of this bill, I think this particular amendment is trying to capture the spirit that was asked for by the opposition, which was to ensure that the child advocate and the Ombudsman and MPPs and MPs were receiving that capacity in the legislation.

1520

I will testify to some very questionable things that were caught when they opened some of those letters and communications. In some cases, I actually saw some very intimidating letters to the victims of the people who were there. They were sending letters to the victims and, had they not intercepted them, those letters would have been received by the very people all of us want to protect.

I want that on the record to indicate that the scope was very important for us, to capture the intent of what the opposition was saying but to ensure that people who are providing those services are given the faith and good judgment to be able to intercept those letters at the appropriate time to avoid victims being victimized twice.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr.

Levac. Any further questions or comments?

Ms. Andrea Horwath: I have to say I'm going to support this amendment, although I would have preferred, obviously, my amendment to be accepted. I'm glad that the government has seen that there needed to be an improvement here and appreciate that it's before us.

The Chair (Mr. Shafiq Qaadri): Those in favour of government motion 10? Those opposed? Government

motion 10 carried.

NDP motion 11. Ms. Horwath.

Ms. Andrea Horwath: I move that section 103 of the Child and Family Services Act, as set out in subsection 8(3) of the bill, be amended by adding the following subsection:

"Paramount right

"(4.1) Despite subsection (4), a young person's right to send and receive written communications is a paramount right and is subject to following safeguards:

"1. In proposing to examine or read a written communication under subclause (4)(b)(i), the person proposing to examine or read the communication must, before doing so, set out in writing his or her reasons for believing that the written communications may be prejudicial to the best interests of the young person, the public safety or the safety or security of the place of detention or custody.

"2. In the written reasons required by paragraph 1, the person must set out fully his or her understanding of what

are the best interests of the young person, what the public safety issue is or how safety or security of the place of detention or custody might be threatened.

- "3. In proposing to examine or read a written communication under clause (4)(c), the person proposing to examine or read the communication must, before doing so, set out in writing his or her reasons for believing that the communication contains material that is not privileged as a solicitor-client communication and must share those reasons with the young person's solicitor, who shall be given a reasonable opportunity to comment on the reasons before the communication is examined or read.
- "4. A service provider shall annually report to the minister on any activities that the service provider or the service provider's staff has undertaken under subsection (4) and the report shall contain such detail as is necessary to fully set out the reasons for interfering with a young person's right to send and receive written communications.
- "5. The minister shall annually publish a report summarizing the instances where a young person's right to send and receive written communications has been interfered with under subsection (4), but shall do so in a fashion that protects the identity and privacy of any young persons."

Again, Chair, if I can just continue, having put the motion forward, to explain that the purpose of it is to really articulate the right of a young person to send and receive communication and to articulate that the safeguarding of that right is subject to some procedures. Basically, it puts forth extra mechanisms of accountability, the issue being that it provides that checklist, if you will—the requirement, if you will-that ensures that communications are being interrupted, interfered with or reviewed with good reason and not in a fashion that becomes simply a habit or a procedural implementation of constant interception of communications.

The whole purpose is that there has to be some accountability. It's very easy for young people's rights to be minimalized or removed. Putting requirements on service providers in this regard assists in ensuring that the young people's rights to have their communication kept confidential as much as possible are much higher-I believe that it's important that service providers are kept accountable, not only in terms of what might become a procedural practice, in terms of constantly opening these kinds of communications or reading these kinds of communications, but also ensuring that the service provider is cognizant of what the rights of the young person are, what is really in the interest of the young person and what is and is not a public safety issue or what is or is not something that might threaten the facility itself.

So, again, although some might think that this is a bit too much paperwork, unfortunately we've seen too many times the situation where young people's rights are overridden as opposed to being upheld, and we believe that putting this accountability measure in place will help to maintain the rights of young people and their ability to receive communication. As well, it creates that accountability mechanism for service providers, who would have to, on an annual basis, provide information about the extent to which they're collecting, interfering with or reading communications from young people in custody.

The Chair (Mr. Shafiq Qaadri): I am told that paragraph 3 of NDP motion 11 grievously offends the legal sensibilities here and therefore is out of order. If you require commentary, I would invite it from legislative counsel.

Mr. Albert Nigro: Paragraph 3 of subsection (4.1), as proposed in the NDP motion, was drafted in light of clause 103(4)(c) as it existed when the bill was introduced and as it existed when the bill was considered by this committee after second reading. That clause was amended by what is labelled "government motion number 10, clause c." It has taken out a clause from the clause, if I could put it that way:

"unless there are reasonable and probable grounds to believe that it contains material that is not privileged as a solicitor-client communication"

But since that clause is removed, paragraph 3 is now redundant as drafted.

Ms. Andrea Horwath: I understand that. Thank you very much for the clarification. So perhaps the remainder of the motion can be considered. I'll withdraw item number 3, and then the rest would be renumbered so that 4 becomes 3 and 5 becomes 4.

The Chair (Mr. Shafiq Qaadri): Accepted, and as Ms. Horwath has said, paragraph 3, NDP motion 11, has been withdrawn, so we will now consider NDP motion 11 amended.

Those in favour of NDP motion 11? Those opposed? NDP motion 11, amended or unamended, defeated.

Shall section 8, as amended, carry? Carried?

Section 9, PC motion 12.

Mrs. Julia Munro: I move that section 103.1 of the Child and Family Services Act, as set out in section 9 of the bill, be amended by adding the following subsection:

"Exception, Ombudsman

"(3) Nothing done under this section applies to the Ombudsman or a member of the Ombudsman's staff acting under the authority of the Ombudsman Act."

The Chair (Mr. Shafiq Qaadri): Further comments or questions? Mrs. Munro, do you have anything? No?

Mrs. Van Bommel, then.

Mrs. Maria Van Bommel: I'd like to refer the committee to motion number 14, which expands the visits not just to include the Ombudsman but also the advocate and MP and MPPs.

Mrs. Julia Munro: Yes, thank you. And-

Mrs. Maria Van Bommel: It improves upon-

Mrs. Julia Munro: Yes, it does.

Mrs. Maria Van Bommel: We, again, accept the spirit of what you're doing, but we feel that we can broaden it further in motion number 14.

Mrs. Julia Munro: And that's fine.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, those in favour of PC motion 12? Those opposed? PC motion 12 defeated.

NDP motion 13.

1530

Ms. Andrea Horwath: I move that section 103.1 of the Child and Family Services Act, as set out in section 9 of the bill, be amended by adding the following subsections:

"Exemption

- "(3) Conditions and limitations upon the visits to a young person may not be imposed under subsection (1) in respect of the following persons:
 - "1. Members of the young person's family.
 - "2. The young person's solicitor.
- "3. Another person representing the young person, including the Provincial Advocate for Children and Youth.
- "4. The Ombudsman appointed under the Ombudsman Act and members of the Ombudsman's staff.
- "5. A member of the Legislative Assembly of Ontario or of the Parliament of Canada;

"Conditions and limitations

"(4) The service provider shall only impose conditions and limitations under subsection (1) where there is clear and convincing evidence that they are necessary and shall impose the least intrusive conditions and limitations as are possible to ensure the safety of staff or young persons in the facility."

Again, this is similar to the government motion that is coming next, and I expect the government members will be supporting their own motion. However, I think it's important to note that the motion I have put forward is a little bit broader than the government's motion in that it talks about family members and includes the young person's solicitor as well. I would hope that in the spirit of the government recognizing that their motion was more broad and encompassing than the opposition's motion, maybe they will recognize that my motion is more broad and all-encompassing than theirs.

Mrs. Maria Van Bommel: Certainly, again, I recognize the spirit and intent of the motion, and as much as I feel it's important for family members to have some access, I have particular concerns about the definition of family members. Is this immediate family? The possibility of having a family member, or someone who claims to be a family member, come in—it could be someone who could also have a potential for conflict with the law to have access to this child or youth. So I'm a little concerned about the definition of family members.

The Chair (Mr. Shafiq Qaadri): Shall we proceed to the vote?

Those in favour of NDP motion 13? Those opposed? I declare motion 13 defeated.

Government motion 14. Mrs. Van Bommel.

Mrs. Maria Van Bommel: I move that section 103.1 of the Child and Family Services Act, as set out in section 9 of the bill, be amended by adding the following subsection:

"Limited exception

"(3) Despite subsection (2), the service provider may not suspend visits from,

"(a) the Provincial Advocate for Children and Youth and members of his or her staff;

"(b) the Ombudsman appointed under the Ombudsman Act and members of the Ombudsman's staff; or

"(c) a member of the Legislative Assembly of Ontario or of the Parliament of Canada,

"unless the provincial director determines that suspension is necessary to ensure public safety or the safety of staff or young persons in the facility."

The Chair (Mr. Shafiq Qaadri): Comments or

queries?

Those in favour of government motion 14? Those opposed? I declare government motion 14 carried.

Shall section 9, as amended, carry? Carried. Shall sections 10 and 11 carry? Carried. Section 12. NDP motion 15. Ms. Horwath.

Ms. Andrea Horwath: I move that subsection 127(5)-(9) of the Child and Family Services Act, as set out in subsection 12(2) of the bill, be struck out and the following substituted:

"Continuous observation of child

"(5) The service provider shall ensure that a child or young person who is placed in a secure isolation room is continuously observed by a responsible person.

"Review

"(6) Where a child or young person is kept in a secure isolation room for more than one hour, the person in charge of the premises shall review the child's or young person's isolation at prescribed intervals.

"Release

"(7) A child or young person who is placed in a secure isolation room shall be released as soon as the person in charge is satisfied that the child or young person is not likely to cause serious property damage or serious bodily harm in the immediate future.

"Maximum periods

"(8) In no event shall a child or young person be kept in a secure isolation room for a period or periods that exceed an aggregate of eight hours in a given 24-hour period or an aggregate of 24 hours in a given week."

It's pretty clear what this amendment attempts to do. We believe that secure isolation is a very heavy-handed way of dealing with young people. It is very traumatic, for young people and children particularly, to be put in a situation of secure isolation. What this amendment does, in our opinion, is it amends the bill to create a greater accountability around the use of secure isolation. All secure-custody detention facilities should be required to review the use of secure isolation—that's the next one that's coming—but in this particular case, it's really clear to us that the use of secure isolation has to be done with safeguards in place, and we believe that this amendment provides some of those safeguards.

The Chair (Mr. Shafiq Qaadri): Further commentary? Mrs. Van Bommel?

Mrs. Maria Van Bommel: My particular concern with this amendment is that you're talking about continuous observation regardless of the age of the child or youth. My own experience is that while it's appropriate

for continuous observation of someone, say, 12 to 15—because at that age the child may feel abandoned if they have a sense that there's not an adult outside—on the other hand, a teenager in the 15-to-18 range would feel that you were being intrusive, invading their privacy, and you might actually aggravate them more by being in their face, so to speak.

I think in terms of dealing with the frequency of observation, I certainly understand the concerns and we are very cognizant of recommendations coming out of inquests into these things, but I think we need to also understand that the range of ages that we're dealing with here have different levels of needs and different levels of maturity and, through regulation, we need be able to address those.

Ms. Andrea Horwath: I just think it's important right now to put on the record the fact that this government did not consult at all with young people in the drafting of this legislation. There was no conversation with young people in the drafting of this bill, nor since it was tabled in this Legislature. So I find it extremely disconcerting that the government would purport to know what's on young peoples' minds and how they might feel or not feel about how secure isolation is provided, whether there's observation or no observation. I find it actually quite offensive that, without having any consultation, the government is putting on the table some acknowledgement or expectation that they know what's on the minds of young people and how they broadly would receive that kind of observation when in secure isolation. I find it actually offensive and I think it's problematic. Again, one of the reasons why I was extremely frustrated with the way this bill came to pass from day one is the total lack of acknowledgement by this government that young people have a right to participate in the preparation and development of legislation that's going to affect them.

I don't purport to know how young people would receive observation during secure isolation, but I would expect that, at the very least, the Child and Family Services Act standards that protect a young person in secure isolation should be for all young people, not just people of a certain age. That's why this amendment is before us, to ensure that young people—yes, 16 and older—are not exempt from the safeguards of the use of secure isolation that were set out in the bill. We don't think it's appropriate.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we'll proceed to consider NDP motion 15. Those in favour? Those opposed? NDP motion 15 defeated.

Shall section 12, as is, carry? Carried. Section 13 is a notice, number 16.

Ms. Andrea Horwath: I'm putting this notice forward that we recommend voting against section 13 of Bill 103, and, of course, the reasons for that are because the entire section of the bill would need to be removed rather than the passing of a motion to have it deleted. That's the purpose of this notice in front of us.

What the removal would do is amend the bill for greater accountability, again removing exemptions for

reviewing or reporting secure isolations from some facilities. I believe, if I'm not mistaken, there might be something coming from the government—I'm not sure—in regard to this issue. Basically, we believe that there should be a review of secure isolation every three months—to make sure that isolation rooms are reviewed every three months.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Horwath. Any further comments? Mr. Levac?

Mr. Dave Levac: I might get my hand slapped on this one, but if I can ask Ms. Horwath a question on this particular notice. The section has to be removed completely under advice of the Clerk's office, and if there was a change to the time frame—maybe I can seek clarity from the clerk. If there was a change to the time frame of every three months, and it was changed to, let's say, a friendly amendment of six months, then would the amendment come back to the table, instead of having to vote against it? Albert?

Mr. Albert Nigro: If I understand what you're saying, what you would want to do is amend section 128 of the bill and change the time period from—

Mr. Dave Levac: Three months to six months.

Mr. Albert Nigro: —three months to six months. That would have to be moved as a separate motion. As the bill was drafted and as the committee considered it, basically there was an amendment to section 128 which exempted places of secure custody or secure temporary detention from the three-month rule. You could move a motion to change three months to six months; you can vote down section 13 as it exists now. I'm in the committee's hands on that.

Mr. Dave Levac: Just to continue to further clarify, instead of then having to deal with what Ms. Horwath was advised, which is to recommend voting against that entire section, if Ms. Horwath were to say that an amendment to the three-month period be six months, then it would remove her request by the clerk to vote against the section and allow her to get the amendment that she wants into the bil—provided and allowed to be a sixmonth time frame instead of a three-month time frame. Is that an appropriate way to describe it?

Mr. Albert Nigro: The question seems better answered by Ms. Horwath than by me.

Mr. Dave Levac: If that were to take place.

Mr. Albert Nigro: From a legal point of view, a new motion would have to be moved amending section 128 of the act, striking out "three months" and changing it to "six months."

Mr. Dave Levac: Okay, and then the rest of the section would be left alone and in place, but there would be a change of the "three months" to "six months," and that would be appropriate if she were to present that from the floor.

The Chair (Mr. Shafiq Qaadri): Procedurally, I understand that we would need to recess so that legislative counsel can actually draft such a motion and then reconvene and proceed from there.

Mr. Dave Levac: I'm in Ms. Horwath's hands.

Ms. Andrea Horwath: I would actually appreciate that. I think it's a good compromise and something that's probably worth—

The Chair (Mr. Shafiq Qaadri): So is it the will of the committee that we recess for this process? How much time do you need?

Interjection.

The Chair (Mr. Shafiq Qaadri): All right. This committee is recessed for 10 minutes.

The committee recessed from 1543 to 1600.

The Chair (Mr. Shafiq Qaadri): All right, we'll reconvene. Ms. Horwath has the floor for NDP motion 16a, hot off the presses.

Ms. Andrea Horwath: I move that section 128 of the Child and Family Services Act, as set out in section 13 of the bill, be amended by adding after "every three months" the following:

"or, in the case of secure custody or secure temporary detention, every six months"

What this does, of course, is provide that opportunity for required review of the use of secure isolation.

I want to thank the government members for considering this as an improvement to the bill. It's a compromise that I hope everyone will see as a valuable addition to the bill.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Dave Levac: I thank Ms. Horwath for that understanding, in the capacity of what we were trying to accomplish, which was to ensure that under secure custody and secure temporary detention, any excessive amount of reporting be minimized so that those particular individuals can do the job of taking care of those people. I want to be on the record, there was absolutely no intention of my intervention or the government's, after discussion, to stop the three-month supervision of mental health or any other institution. I'm glad it was pointed out so that we could work out the compromise. I appreciate that very much.

Ms. Andrea Horwath: Thank you.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 16a? Those opposed? I declare NDP motion 16a to have been carried. I commend the committee on their new spirit of harmony and co-operation.

Shall section 13, as amended, carry? Carried.

We'll proceed to block consideration. Shall sections 14 to 27, inclusive, carry, as is? Carried.

Section 28. PC motion 17.

Mr. Peter Shurman: I move that the definition of "youth" in subsection 2(1) of the Provincial Advocate for Children and Youth Act, 2007, as set out in subsection 28(2) of the bill, be struck out and the following substituted:

"'youth' means one or more young persons within the meaning of the Child and Family Services Act and young persons who are being dealt with under the Youth Criminal Justice Act (Canada). ('jeune')"

This bill is really, in an overall sense, about bringing two sections of people between 12 and 17 together, so this makes sense. The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Andrea Horwath: I'll support this because it's very similar to the amendment that we bring forward, as well.

The Chair (Mr. Shafiq Qaadri): Further comments? Mrs. Maria Van Bommel: From our interpretation of this motion, this would expand the jurisdiction of the youth advocate to youth who are placed in federal adult corrections facilities. Is that—?

Mr. Peter Shurman: I can't define that because that sounds like something that's regulatory. We're simply saying that we want the thing extended to cover the Youth Criminal Justice Act, only because that's the act that would be enforced at the higher end of the age spectrum.

Mrs. Maria Van Bommel: It's my understanding that that would be the effect of this particular motion, that the advocate would have contact with youth who are in the adult system, and that "adult" is defined by how the judge sentences the individual. So that would mean it isn't based on age, it's based on where the judge places that person.

We have situations where 19-year-olds in the youth justice system would, by age, be defined as adults, but because they are within the youth justice system they can appeal to the advocate. On the other hand, those who are placed in the adult system would have to appeal to the Ombudsman, and that's under existing legislation, because they're treated as an adult even though, by age, we would say they were youths. But the judge has sentenced them as adults, and they would be treated as adults and not as youths.

Mr. Peter Shurman: I hear what you're saying. I don't want to belabour the point, but it has been my understanding, since we've begun hearings on this bill, that the whole objective of this was to try to create uniformity and get children, in effect, out of an adult penal system and into a more secure youth-oriented facility. That being the case, we have to, for consistency's sake, look at both of these acts and dovetail them. If you don't mention the Youth Criminal Justice Act, you wind up, in effect, separating them, do you not?

Mrs. Maria Van Bommel: I need to refer to our legal counsel on that one because I'm not a lawyer. Dave?

Mr. Dave Levac: There are a couple of indications that once these individuals, who number very few—and that's important to point out—end up in adult supervision, the Ombudsman would have an opportunity to take care of their cases. It's not as if they were—

Mr. Peter Shurman: That doesn't give me a lot of comfort.

Mrs. Maria Van Bommel: They're not without—

Mr. Dave Levac: It's not as if they don't have someone to turn to, to advocate for them, on their behalf. The Ombudsman would take responsibility for that after they leave the institutions that we're trying to bring back in. At the judicial level, what happens is that when those appraisals are done, they're done with the intent of having them come to the youth detention. Then, if the appraisal

takes place and that's not the right spot for them—and it's going to be few and far between that it's not—then they move them to the adult circumstances, which then simply separates them from the youth that we're trying to protect as well.

Mr. Peter Shurman: I hear what you're saying. I'm simply saying that, notwithstanding that, the Youth Criminal Justice Act plays a role here because there's a division of responsibility which is arbitrary, is there not? You've just signalled that. So I'd like it to be covered, which is the purpose of this amendment.

The Chair (Mr. Shafiq Qaadri): Any further comments? Seeing none, we will proceed to consider—pardon me?

Ms. Andrea Horwath: Mr. Chair, I would just like to comment. I'm going to support this because, in fact, we wanted a similar amendment.

The Chair (Mr. Shafiq Qaadri): Thanks.

Those in favour of PC motion 17? Those opposed? Lost. It was close, though.

NDP motion 18.

Ms. Andrea Horwath: I move that that the definition of "youth" in subsection 2(1) of the Provincial Advocate for Children and Youth Act, 2007, as set out in subsection 2(1) of the bill, be struck out and the following substituted:

"'youth' means one or more young persons within the meaning of the Child and Family Services Act and one or more young persons within the meaning of the Youth Criminal Justice Act (Canada).('jeune')"

Again, the purpose of this amendment is to make sure that the Provincial Advocate for Children and Youth Act includes young people on purpose, to reinforce the fact that young people in custody are, in fact, in some ways, in care. We believe that the office of the Provincial Advocate for Children and Youth would like to see that amendment.

We actually know that the office of the Provincial Advocate for Children and Youth did not participate in any way in the drafting of this legislation, and again wanted to put on the record that that's disconcerting. I think that it's more appropriate and more respectful to have these kinds of things vetted through the very organization whose legislation you're actually changing. So it's a bit problematic that the process that was undertaken by the government—or lack of process. Having said that, hopefully this was a learning experience and it won't continue to happen.

1610

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Horwath, for the comments. Mrs. Van Bommel?

Mrs. Maria Van Bommel: The Youth Criminal Justice Act indicates that when youth are transferred to adult correctional facilities they are treated as adults. Adult legislation has jurisdiction over the services that are provided to them and, as such, the advocate's jurisdiction is over the youth system and the Ombudsman's jurisdiction is over the adult penal system.

Ms. Andrea Horwath: Again, I understand where the government's coming from, but nonetheless, a young

person is a young person is a young person, and the child and youth advocate advocates for young people. Technically, if you're in custody, you in some ways can be considered to be in care. That's simply just a difference in the way that we interpret—

Mrs. Maria Van Bommel: But they still have the Ombudsman. It's not that they are totally abandoned

once they move into the-

Ms. Andrea Horwath: Again, the Ombudsman is different than an advocate. We certainly learned that in the process of developing the legislation that governs the advocate's office. Advocates are different than Ombudsmen. Ombudsmen have to have a non-biased kind of perspective; advocates actually advocate and take the position that is in support of the young person at all times. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Those in favour of NDP motion 18? Those opposed? I declare it to have been defeated.

Shall section 28 carry? Carried.

Block consideration: sections 29 to 30 carry, as is? Carried.

PC motion 19.

Mr. Peter Shurman: I move that the bill be amended by adding the following section:

"30.1 The act is amended by adding the following

section:

"Provision of Information

"16.1 The advocate may,

""(a) require any officer, employee or member of any police service, governmental organization or service provider who, in the opinion of the advocate, is able to give any information relating to any matter that is the subject of a review, a systemic review or a complaint or advocacy by the advocate to furnish him or her with the information; and

""(b) require the person to produce any documents or things, which in the advocate's opinion relate to any such matter and which may be in possession or control of the person."

The Chair (Mr. Shafiq Qaadri): Comments, Mr. Shurman?

Mr. Peter Shurman: Yes. This is new, to broaden the act to better reflect the advocate's role. The advocate appeared here in deputation to talk about the fact that he had a problem in obtaining information, and we would just like to give further assurances or provide further insurance that he does.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Shurman. I would just inform the committee that this amendment is apparently inadmissible, officially being beyond the scope of this bill. If you need any further commentary from legal counsel, it is available to you, Mr. Shurman.

I also inform the committee that NDP motion 20, being exact, is also beyond the scope of this bill, and therefore both are ruled out of order.

So, consideration of that new section, 30.1, has expired.

Shall section 31, as is, carry? Carried.

PC motion 21. Mr. Shurman?

Mr. Peter Shurman: I move that the bill be amended by adding the following section:

"Ombudsman Act

"31.1 Subsection 16(2) of the Ombudsman Act is repealed and the following substituted:

"To be forwarded

"(2) Despite any provision of any act, if a written communication addressed to the Ombudsman is written by an inmate of a provincial correctional institution, a child in care as defined in the Child and Family Services Act or a patient in a provincial psychiatric facility, the written communication shall be immediately forwarded, unopened, to the Ombudsman by the service provider or by the person for the time being in charge of the institution, youth custody facility or other facility...."

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Shurman. I would also inform the committee that this particular motion is an unwanted orphan in that it seeks to amend the parent act that is not, in fact, before this committee, and therefore out of order and inadmissible.

I also inform the committee that NDP motion 22, being exact, falls under the same categorization, and therefore invalid, out of order.

Ms. Andrea Horwath: Chair?

The Chair (Mr. Shafiq Qaadri): Yes, Ms. Horwath? Ms. Andrea Horwath: You can't fault us for trying.

Mr. Dave Levac: Did you guys work together?

Ms. Andrea Horwath: No, but we listened to the deputants, which maybe the government didn't do.

The Chair (Mr. Shafiq Qaadri): So consideration of section 31.1 is now expired.

We go to block consideration of sections 32 to 35. Shall they carry, as is? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 103, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Thank you. Is there any further business before this committee? Seeing none—yes, Mrs. Van Bommel?

Mrs. Maria Van Bommel: I would just like to, first of all, thank the members of the standing committee. I think we all understood that the intent and the spirit of what we were doing was to transform the youth justice system and get our young people out of the adult system and treat them in a way that is appropriate for their age. So I want to thank all of you for your help in bringing this forward. I also want to thank the stakeholders who brought forward many important issues for us to consider. Thank you.

The Chair (Mr. Shafiq Qaadri): The committee does detect a new era of shared government, both in Ontario and Ottawa. Committee adjourned.

The committee adjourned at 1615.

CONTENTS

Monday 8 December 2008

Child and Family Services Statute Law Amendment Act, 2008, Bill 103, Ms. Matthews /	
Loi de 2008 modifiant des lois en ce qui concerne les services à l'enfance	
et à la famille, projet de loi 103, M ^{me} Matthews	SP-497

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Vice-Chair / Vice-Président

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Ms. Laurel C. Broten (Etobicoke–Lakeshore L)
Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)
Ms. Cheri DiNovo (Parkdale–High Park ND)
Ms. Helena Jaczek (Oak Ridges–Markham L)
Mr. Dave Levac (Brant L)
Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)
Mr. Khalil Ramal (London–Fanshawe L)
Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)
Mr. Peter Shurman (Thornhill PC)

Substitutions / Membres remplaçants

Ms. Andrea Horwath (Hamilton Centre / Hamilton-Centre ND)
Mrs. Julia Munro (York–Simcoe PC)
Mr. Charles Sousa (Mississauga South / Mississauga-Sud L)
Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)

Clerk / Greffier Mr. Katch Koch

Staff / Personnel Mr. Albert Nigro, legislative counsel





